

# The Gazette of India

**PUBLISHED BY AUTHORITY**

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**No. 44] NEW DELHI, SATURDAY, OCTOBER 29, 1960/KARTIKA 7, 1882**

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## **NOTICE**

The undermentioned Gazettes of India Extraordinary were published upto the 20th October, 1960 :—

Issue No.	No. and date	Issued by	Subject
205	S. O. 2519, dated 15th October, 1960.	Ministry of Finance	The Central Civil Services (Revised Pay) Third Amendment Rules, 1960.
206	S. O. 2574, dated 18th October, 1960.	Ministry of Information and Broadcasting.	Approval of film specified therein.
207	S. O. 2575, dated 20th October, 1960.	Ministry of Commerce & Industry.	Appointing Shri R. V. Raman, Joint Secretary, Ministry of Commerce and Industry, as Controller of Motor Cars.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

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**PART II—Section 3—Sub-section (ii)**

**Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).**

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**MINISTRY OF HOME AFFAIRS**

*New Delhi, the 18th October 1960*

**S.O. 2588.**—In pursuance of clause (b) of rule 2 of the Citizenship Rules, 1956, the Central Government hereby rescinds the notifications of the Government of India in the Ministry of Home Affairs—

(i) No. 10/3/56-I.C., dated the 26th October, 1956; and

(ii) No. 10/3/56-(ii)-IC, dated the 29th August, 1956, in so far as it relates to the appointment of Sub-Divisional Officers to perform the functions of the Collector under the said rules in the territories referred to in clause (a) of sub-section (1) of section 9 of the States Reorganisation Act, 1956 (37 of 1956), and now comprised in the State of Madhya Pradesh.

[No. 10/8/60-I.C.]

FATEH SINGH, Jt. Secy.

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**MINISTRY OF EXTERNAL AFFAIRS**

*New Delhi, the 4th October, 1960*

**S.O. 2589.**—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules relating to recruitment to the excluded posts of Section Officer, Budget and Accounts Section in the Ministry of External Affairs, namely:—

1. **Short title.**—These rules may be called the Section Officer, Budget and Accounts Section (Ministry of External Affairs), Recruitment Rules, 1960.

2. **Application.**—These rules shall apply to the post of Section Officer, Budget and Accounts Section in the Ministry of External Affairs.

3. **Number, Classification and Scale of Pay.**—The number of posts, the classification of the said post and the scale of pay attached thereto shall be as specified in Columns (2) to (4) of the Schedule annexed to these rules.

4. **Method of recruitment, qualifications etc.**—The method of recruitment to the said post, qualifications and other matters relating to the said post shall be as specified in columns (5) to (13) of the Schedule aforesaid.

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**5. Disqualifications.**—No person who has more than one wife living, or is married to a person who has a wife living shall be eligible for appointment to the said post.

Provided that the Central Government may, in any exceptional case and for reasons to be recorded in writing exempt any person from the operation of this rule.

## SCHEDULE

Name of post	No of posts	Classification	Scale of pay	Whether selection post or re-selection post	Age limit for direct recruits
I	2	3	4	5	6
Rs.					
Section Officer	2	G. C. S. class II (Graded) G. C. S. Class I (Graded) when held by grade II Officers of I.F.S. (B)	275—25—500 (if held by grade III of I. P. S. (B) and S. A. S. Accountant) and Rs. 530—30—800 (if held by grade II of I.F.A. (B) or Assistant Accounts Officer)	Selection	N.A.

Educational and other qualifications required	Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation, if any	Method of rectt whether by direct rectt or transfer and percentage of the vacancies to be filled by various methods	In case of rectt by promotion/transfer, grades from which promotion to be made	If a D P C exists what is its composition	Circumstances in which U P S C. is to be consulted in making rectt.
7	8	9	10	11	12	13
N.A.	N.A.	2 Years	By promotion failing which by deputation/transfer	<p><i>Promotion</i> —</p> <p>1 S A S Accountant on deputation in the Min 50 (Rs 200—15—300—E B.—20—500 <i>plus</i> S P of Rs 50/75)</p> <p>2. Grade IV of I F S. (B)</p> <p><i>Deputation/Transfer</i> —</p> <p>1. Grade III (275—500) or Grade II (530—800) of I. F S. (B)</p> <p>2 Asstt. Accounts Officers from any of the organised Accounts and Audit Departments (The Indian Audit Accounts Department the Defence Accounts Department etc)</p>	Class I or Class II D P C, as the case may be	As required under the rules.

*New Delhi, the 17th October 1960*

**S.O. 2590.**—In pursuance of sub-sections (3) and (5) of Section 11 of the Port Haj Committees Act, 1932 (XX of 1932), the election of Captain M. A. Golandaz as Chairman of the Port Haj Committee, Bombay, at the meeting of the Committee held on September 27, 1960, is hereby approved and notified.

[No. 29-A(10)-WANAR/60.]

P. N. KAUL, Dy. Secy.

## **MINISTRY OF FINANCE**

**(Department of Expenditure)**

*New Delhi, the 18th October 1960*

**S.O. 2591.**—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President is pleased to make the following amendments in the Delegation of Financial Powers Rules, 1958, namely:—

### *Amendment No. 72*

In Schedule I to the Rules, under "O. Ministry of Scientific Research and Cultural Affairs", insert the following:—

"9. Director, National Museum, New Delhi".

(This amendment takes effect from 28th September, 1960).

[No. 19(17)-E.II(A)/60.]

**S.O. 2592.**—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President is pleased to make the following amendment in the Delegation of Financial Powers Rules, 1958, namely:—

### *Amendment No. 73*

In Schedule I to the Rules, under "D. Ministry of Finance (Economic Affairs Department)", insert the following:—

"8. General Manager, Silver Refinery, Calcutta."

(This amendment takes effect from 4th October, 1960).

[No. 19(18)-E.II(A)/60.]

C. R. KRISHNAMURTHI, Dy. Secy.

## (Department of Economic Affairs)

New Delhi, the 12th October 1960

S.O. 2593.—Statement of the Affairs of the Reserve Bank of India as on the 7th October 1960.

## BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	12,21,71,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	1,80,000
National Agricultural Credit (Long-term Operations) Fund . . . . .	40,00,00,000	Subsidiary Coin . . . . .	5,31,000
National Agricultural Credit (Stabilisation) Fund . . . . .	5,00,00,000	Bills Purchased and Discounted : —	
Deposits :—		(a) Internal . . . . .	..
(a) Government		(b) External . . . . .	..
(1) Central Government . . . . .	55,33,92,000	(c) Government Treasury Bills . . . . .	23,78,31,000
(2) Other Governments . . . . .	11,25,39,000	Balances held abroad*	17,79,38 000
(b) Banks . . . . .	105,61,49,000	Loans and Advances to Governments**	39,19,41,000
(c) Others . . . . .	85,95,55,000	Other Loans and Advances†	127,74,84,000
Bills Payable . . . . .	16,34,73,000	Investments . . . . .	186,94,27,000
Other Liabilities . . . . .	15,50,18,000	Other Assets . . . . .	12 26,23 000
RUPEES . . . . .	420,01,26,000	RUPEES . . . . .	420,01,26,000

\*Includes Cash and Short-term Securities.

\*\*Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 8,30,80,000/- advanced to scheduled banks against usance bills under Section 17 (4)(c) of the Reserve Bank of India Act.

Dated the 12th day of October, 1960.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 7th day of October 1960.

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department . . .	12,21,71,000		A Gold Coin and Bullion:—		
Notes in circulation . . .	1810,91,18,000		(a) Held in India . . .	117,76,03,000	
Total Notes issued . . .		1823,12,89,000	(b) Held outside India		
			Foreign Securities . . .	123,00,89,000	
			TOTAL OF A . . .		240,76,92,000
			B. Rupee Coin . . . . .		130,61,96,000
			Government of India Rupee Securities . . . . .		1451,74,01,000
			Internal Bills of Exchange and other commercial paper		
TOTAL LIABILITIES . . .		1823,12,89,000	TOTAL ASSETS . . . . .		1823,12,89,000

Dated the 12th day of October, 1960.

H. V. R. IENGAR,  
Governor.

[No. F 3(2)-B 2,60.]  
R. K. SESHADRI, Dy. Secy.



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**(Department of Revenue)****INCOME-TAX ESTABLISHMENTS***New Delhi, the 21st October, 1960*

**S.O. 2594**—Consequent on his posting as Income-tax Officer in the charge of the Commissioner of Income-tax, West Bengal, Calcutta, the powers conferred on Shri T. V. Ramakrishna by the Ministry of Finance (Revenue Division) Notification No. 44/F. No. 49(6)-Est.(IIQ)/51, dated the 4th September 1951, are hereby withdrawn.

[No. 277.]

**S.O. 2595**.—In pursuance of clause (b) of Sub rule (ii) of rule 2 of the Appellate Tribunal Rules, 1946, the Central Government has been pleased to appoint Shri A. Satyanarayana, Income-tax Officer, as Authorised Representative, Income-tax Appellate Tribunal, with effect from the afternoon of the 13th June, 1960, to appear, plead and act for any Income-tax authority who is a party to any proceedings before the Income-tax Appellate Tribunal.

[No. 278.]

**S.O. 2596**.—Consequent on his posting as Income-tax Officer in the charge of the Commissioner of Income-tax, Madras, the powers conferred on Shri N. S. Jagannathan, by the Ministry of Finance (Revenue Division) Notification No. 66/F. No. 49/9/56-Ad.I, dated the 29th June 1956, are hereby withdrawn.

[No. 279.]

D. SUBRAMANIAM, Dy. Secy.

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**CENTRAL BOARD OF REVENUE****CUSTOMS***New Delhi, the 29th October 1960*

**S.O. 2597**.—In exercise of the powers conferred by section 9 and 188 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Board of Revenue hereby makes the following amendments to the Powers and Duties of Customs Officers (Kerala) Rules, 1960, published with the notification of the Government of India, Central Board of Revenue No. 92-Customs, dated the 27th August, 1960, namely:—

1. These rules may be called the Powers and Duties of Customs Officers (Kerala) Amendment Rules, 1960.
2. In the Powers and Duties of Customs Officers (Kerala) Rules, 1960, in rule 9, the words "The powers of officers in charge of Central Excise Circles shall be limited to those indicated in clause (b) of section 182." shall be omitted.

[No. 113/F. No. 52/1/60-LC.II.]

M. C. DAS, Secy.

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**CENTRAL EXCISE COLLECTORATE, ALLAHABAD***Allahabad, the 14th September 1960*

(4th Amendment to Notification No. 1/60, dated 24th April 1960)

**S.O. 2598**.—In column 3 of the table against Sl. No 2—Assistant Collector, insert Rule 96 I(4) between the existing rules 93(b) and 96(k)(2).

[No. 5/1960.]

S. C. MATHUR, Collector.

**OFFICE OF THE ASSTT. COLLECTOR OF CENTRAL EXCISE AND LAND  
CUSTOMS, GOA FRONTIER DIVISION, BELGAUM.**

**NOTICE**

*Belgaum, the 18th October, 1960*

**S.O. 2599.**—Whereas it appears that the goods as mentioned in the undermentioned table seized in the vicinity of the Indo Goa border, were about to be exported by sea to Goa (Portuguese possession in India) in contravention of the Rules and Notifications as mentioned against each.

S. No.	Date & place of seizure.	By whom detected	Description of goods	Quantity	Rules contravened.
1	18-1-1960 at Off Tilmati.	Sub-Inspr., Customs, F. S. Karwar	(1) 9 Yards Cotton Sarees . . . (2) 5 Yards Cotton Sarees . . . (3) 5 Yards Artsilk Sarees . . . (4) 3 pieces of Artsilk cloth . . . (5) Kambals . . . (6) Mudis Tea tins each of 16 Lbs . . . (7) Gunny bags . . . (8) Dirty white bag . . . (9) Small tins of Asafoetida Shankar Chap each of 1 lb. . . (10) Swastik perfumed oil bottle (Broken seal) (11) Small turkish towel . . . (12) Piece of cttn. cloth 3 Yd. . . (13) Pair of boots with two socks . . . (14) Old woollen pant (Used) . . . (15) Tea in piece of cloth . . . (16) Pair of chappals (New) . . . (17) Toney bearing No. KWR 5836 with its 2 cars & 1 balance.	145 19 17 12 Yd. 2 4 2 1 16 tins  1 1  1 1 1 1	Export Control Order No. 1/54 dt. 10-5-54 and 1/58 dt. 1-5-58 issued under Sections 3 and 4-A of the Imports and Exports Control Act 1947 further deemed to have been issued under Section 19 of the Sea Customs Act 1878.

2. Now, therefore any person claiming the goods is hereby called upon to show cause to the Asstt. Collector of C. Excise, L. Customs, Goa Frontier Divn., Belgaum why the above mentioned goods should not be confiscated under Sec. 5(3) of the Land Customs Act 1924 read with Sec. 167(8) of the Sea Customs Act 1878 and why a penalty should not be imposed on him under Sec. 7(1)(c) of the Land Customs Act 1924 read with Section 167(8) of the Sea Customs Act 1878.

3. If such an owner fails to turn up to claim the above mentioned goods or to show cause against the action proposed to be taken within 30 days from the date of publication of this notice in the Govt. of India gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII(b)10-147/60.]

E. R. SRIKANTIA, Asstt. Collector.

## MINISTRY OF COMMERCE & INDUSTRY

*New Delhi, the 18th October 1960*

**S.O. 2600.**—In exercise of the powers conferred by Section 4 of the Coir Industry Act, 1953 (45 of 1953) read with sub-rule (1) of Rule 5 of the Coir Industry Rules, 1954, the Central Government hereby appoints

Mr. K. Newton, Manager, M/s. William Goodacre & Sons, Ltd., Alleppey (Kerala).

as a member of the Coir Board under the category "other persons or class of persons who, in the opinion of the Central Government, ought to be represented on Board" for the period beginning with the date of this notification and ending with the 25th day of July, 1963.

[No. F. 42-SSI(B)(2)/60.]

C. S. RAMACHANDRAN, Jt. Secy.

*New Delhi, the 29th October 1960*

**S.O. 2601.**—The Central Government, having considered in consultation with the Forward Markets Commission, the application for recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) by the Cochin Oil Merchants' Association, Cochin, and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Association for a period of three years ending the 28th October, 1963 in respect of Forward contracts in coconut oil.

2. The recognition hereby granted is subject to the condition that the said Association shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(16)-TMP/FMC/58.]

T. S. KUNCHITHAPATHAM, Under Secy.

## RUBBER CONTROL

*New Delhi, the 24th October 1960*

**S.O. 2602.**—In exercise of the powers conferred by sub-section (2) of section I of the Rubber (Amendment) Act, 1960 (21 of 1960), the Central Government hereby appoints the 1st day of November, 1960 as the date on which the said Act shall come into force.

[No. 15(7)Plant(B)/60.]

B. KRISHNAMURTHY, Under Secy.

## ORDER

*New Delhi, the 17th October 1960*

**S.O. 2603.**—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rules 4 & 5 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints the following persons to be members of the Development Council for the scheduled industry engaged in the manufacture and

production of sugar in place of members whose term of office has expired by efflux of time or otherwise :—

Sl. No.	Name and address of the member	Interest represented	Chairman/Member
1.	The Joint Secretary in-charge of Sugar, Ministry of Food & Agriculture, NEW DELHI. (Ex-officio)	"Technical knowledge"	Chairman
2.	Shri M.N. Pittie, M/s. Hiranagar Sugar Mills Ltd., 207, Kalbadevi Road, BOMBAY.	"Owners"	Member
3.	Shri Gulabchand Hirachand, M/s. Walchandnagar Industries Ltd., Construction House, Ballard Estate, Fort, BOMBAY.	Do.	Do.
4.	Shri R.P. Nevatia, M/s. Hindustan Sugar Mills Ltd., 51, Mahatma Gandhi Road, Fort, BOMBAY.	Do.	Do.
5.	Shri D.D. Puri, Saraswati Sugar Mills, YAMUNANAGAR.	Do.	Do.
6.	Shri K.K. Birla, 8, India Exchange Place, CALCUTTA.	Do.	Do.
7.	Sahu Jagdish Prasad, M/s. L.H. Sugar Factories & Oil Mills Ltd., PILIBHIT, U.P.	Do.	Do.
8.	The Cane-cum-Sugar Commissioner, U.P., LUCKNOW. (Ex-officio)	"Technical knowledge"	Do.
9.	The Cane Commissioner, Bihar, PATNA (Ex-officio)	Do.	Do.
10.	The Director of Agriculture, Government of Andhra Pradesh, HYDERABAD. (Ex-officio)	Do.	Do.
11.	The Chief Director, Directorate of Sugar & Vanaspati, NEW DELHI (Ex-officio)	Do.	Do.
12.	The Director, National Sugar Institute, KANPUR (Ex-officio)	Do.	Do.
13.	The Director, Indian Institute of Sugar cane Research, LUCKNOW (Ex-officio)	Do.	Do.
14.	Shri V.A. Mehta, Development Officer (Oils & Food) Development Wing, Ministry of Commerce & Industry, NEW DELHI.	Do.	Do.
15.	Shri T.K. Palaniappan, Secretary to the Government of Madras, Industry, Labour & Co-operation Department, MADRAS.	Do.	Do.
16.	Sardar Lal Singh, Vice-President, Indian Central Sugarcane Committee, NEW DELHI.	Do.	Do.
17.	Shri J.M. Saha, Superintending Technologist, Birla Sugar Research Laboratory, HARGAON, U.P.	Do.	Do.

Sl. No.	Name and address of the Member	Interest represented	Chairman/ Member
18.	Shri Mata Din Khaitan, Bengal Sugar Merchants' Association, 9, Ramkumar Rakshit Lane, CALCUTTA.	"Technical Knowledge"	Member
19.	Shri Ganga Shankar Pandey, The Cawnpore Sugar Merchants' Association, Shakkar Patti, KANPUR.	Do.	Do.
20.	Shri R.S. Phoolka, Cane Commissioner, Punjab, JULLUNDUR.	Do.	Do.
21.	Shri Ram Shankar Lal, M.P. (Lok Sabha), NEW DELHI	"Consumers"	Do.
22.	Shri Sheel Bhadra Yajee, M.P. (Rajya Sabha), NEW DELHI.	Do.	Do.

[No. 141(VI), 60.]

D. HEJMADI Dy. Secy.

(Office of the Deputy Chief Controller of Imports & Exports)

(Central Licensing Area)

NOTICE

New Delhi, the 5th August, 1960

S.O. 2604.—It is hereby notified that in exercise of the powers conferred by clause 9 of the Imports (Control) Order, 1955, the Government of India in the Ministry of Commerce and Industry propose to cancel the Import Licence No. E-634672/59/EI/CCI/D dated 11th February 1960 valued at Rs 10,920 - for import of Giant Motor, Motor Cycle, Bicycle tyres and tubes and flaps and solid tyres, but excluding tractor and off-the-road tyres and tubes under S. No 41(ii) V from Soft Currency Area (except South Africa), granted by the Deputy Chief Controller of Imports & Exports (Central Licensing Area), New Delhi to M/s Nawal Kishore and Son, 9, Esplanade Road, Delhi-6 unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports & Exports (Central Licensing Area), New Delhi within ten days of the date of issue of this notice by the said M/s Nawal Kishore and Son, 9, Esplanade Road, Delhi or any Bank or any other party, who may be interested in it.

2. In view of what is stated above, M/s Nawal Kishore and Son, 9 Esplanade Road, Delhi-6 or any Bank, or any other party who may be interested in the said licence No. E 634672/59/EI/CCI/D dated 11th February, 1960 are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports & Exports (Central Licensing Area), Shahjahan Road, New Delhi.

[No 41(ii) V, 1-60/CLA IX]

V. C. NAIDU, Dy. Chief Controller.

(Office of the Chief Controller of Imports & Exports)

ORDER

New Delhi, the 1st October 1960

S.O. 2605.—Where M/s Mela Ram Charan Dass, 81, Netaji Subhas Road, Calcutta or any Bank or any other person have not come forward furnishing sufficient cause, against Notice No. 620/59/CDN dated 4th March, 1959 proposing to cancel licence No E912918/57/EI/CCI/C dated 20th December, 1958/Agrahayana 29, 1880 (Saka) valued at Rs. 1,000/- for the import of pipes or tubes flexible for passing gas or fluid under pressure and telescopic flush pipes from soft currency

area except South Africa, granted to the said M/s. Mela Ram Charan Dass, 81, Netaji Subhas Road, Calcutta by the Joint Chief Controller of Imports and Exports, Calcutta, Government of India, in the Ministry of Commerce and Industry, in exercise of powers, conferred by Clause 9 of the Imports (Control) Order, 1955 I hereby cancel the said licence No. E912918/57/EI/CCI/C dated 20th December, 1958/Agrahayan 29, 1880 (Saka) issued to the said M/s. Mela Ram Charan Dass 81, Netaji Subhas Road, Calcutta

[No. 620/59/CDN.]

S. K. SEN, Jt. Chief Controller.

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 14th October, 1960

S.O. 2606.—Whereas the Principal, Chhatrapati Shivaji College, the Rayat Shikshan Sanstha, Satara Camp, Satara or any Bank or any other person have not come forward furnishing sufficient cause against Notice No. 250/I(2)/HQ/59/3164, dated the 10th August, 1960, proposing to cancel Licence No. 0 963993/58/CCI/HQ/NQQ, dated the 21st May, 1959, valued at Rs. 13,450/- for the import of Scientific Instruments, Apparatus and Appliances not mainly made of rubber and also not made mainly of glass, as per list attached thereto, from Soft Currency Area except South Africa, granted by the Chief Controller of Imports & Exports, New Delhi to the said Principal, Chhatrapati Shivaji College, the Rayat Shikshan Sanstha, Satara Camp, Satara, the Government of India, in the Ministry of Commerce and Industry, in exercise of the powers conferred by clause 9 of the Imports (Control) Order 1955, hereby cancel the said licence No. 0 963993/58/CCI/HQ/NQQ, dated the 21st May, 1959, issued to the said Principal, Chhatrapati Shivaji College, the Rayat Shikshan Sanstha, Satara Camp, Satara.

[No. 250/I(2)/HQ/59/3886.]

D. D. BHARGAVA,

Dy. Chief Controller for Chief Controller.

(Indian Standards Institution)

New Delhi, the 18th October 1960

S.O. 2637.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee per unit for certain products/classes of products, details of which are given in the Schedule hereto annexed, has been determined and the fee shall come into force with effect from 1 November 1960.

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and title of relevant Indian Standard	Unit	Marking Fee per unit
1.	Salt-Glazed Stoneware Pipes and fittings	IS : 651-1955 Specification for Salt-Glazed Stoneware Pipes and Fittings	One ton	50 nP per unit with a minimum of Rs. 1,000/- for production during a calendar year.
2.	Bicycle Bottom Bracket Fixed Cup	IS : 1133-1958 Specification for Bicycle Bottom Bracket Fixed Cup	One gross	70 nP per unit.

[No. MD/18 : 2.]

**S.O. 2608.**—In partial modification of the rates of marking fees for Drums for Paints and Pruning Knives, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution), Notification Nos. S.O. 853 and S.O. 15 dt. 16 April 1959 and 30 January 1958, published in the Gazette of India, Part II—Section 3—Sub-Section (ii), dated 25-4-59 and 15-2-58, the Indian Standards Institution hereby notifies that the marking fees per unit for Drums and pruning Knives, details of which are given in Schedule hereto annexed, have been revised. The revised rates of marking fees shall come into force with effect from 1 November 1960.

## THE SCHEDULE

Sl. No.	Product/Class of Products.	No. and title of relevant Indian Standard	Unit	Marking Fee per Unit.
1.	Drums for Paints	IS : 442-1954 Specification for Drums for Paints. or IS : 1549-1960 Specification for Steel Drums and Kegs (Galvanized and Ungalvanized)	One drum	1 nP per unit for the first 5,00,000 units with a minimum of Rs. 5,000/- for production during a calendar year. 1/2 nP per unit for production beyond 5,00,000 units.
2.	Pruning Knives, Hooked and Curved	IS : 619-1955 Specification for Pruning Knives, Hooked and Curved.	One dozen	40 nP per unit with a minimum of Rs. 500/- for production during a calendar year.

[No. MD/18 :2.]

**S.O. 2619.**—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed, have been established during the period 1st October to 15th October 1960.

## THE SCHEDULE

Sl. No.	No. and title of the Indian Standard established	No. and title of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Brief Particulars
(1)	(2)	(3)	(4)
1.	IS : 694-1960 Specification for PVC Cables and Cords for Electric Power and Lighting for Working Voltages Up to and Including 650 Volts to Earth ( <i>Tentative, Amended</i> )	IS : 694-1955 Specification for PVC Cables and Cords for Electric Power and Lighting for Working Voltages Up to and Including 650 Volts to Earth ( <i>Tentative</i> )	This standard covers the requirements for the following types of polyvinyl chloride insulated cables and flexible cords for electric power and lighting : (a) <i>Cables</i> (i) Single-core cables, PVC insulated, unsheathed, (ii) Single-core cables, PVC insulated, with PVC sheath (iii) Flat twin cables, PVC insulated, with PVC sheath with or without earth continuity conductor. (iv) Circular twin cables, PVC insulated, with PVC sheath.

(1)	(2)	(3)	(4)
			<p>(v) Flat three-core cables, PVC insulated, with PVC sheath without earth continuity conductor.</p> <p>(vi) Circular three-core cables, PVC insulated, with PVC sheath.</p> <p>(b) <i>Flexible Cords</i></p> <p>(i) Twisted twin flexible cords, PVC insulated, unsheathed.</p> <p>(ii) Parallel twin flexible cords, PVC insulated, unsheathed.</p> <p>(iii) Twin, three- and four-core flexible cords, PVC insulated, with PVC sheath (Price Rs. 6.00).</p>
2.	IS : 1433-1960 Specification for Beam Scales	.	This standard covers the requirements for beam scales of four classes. (Price Rs. 2.50).
3.	IS : 1534 (Part I)—1960 Specification for Fluorescent Lamps Part I For Switch Start Circuits	..	This standard covers ballasts of inductive and capacitive types for use up to 250 V (preferred voltages being 230 V and 240 V) alternating current supply at 50 cycles per second, associated with fluorescent lamps of rated wattages 20, 40 and 80, with pre-heated cathodes when used in switch start circuits. (Price Rs. 6.00)
4.	IS : 1575-1960 Specification for Separating Funnels.	..	This standard prescribes the requirements and methods of test for separating funnels suitable for normal laboratory use. (Price Rs. 2.50)

Copies of these Indian Standards are available for sale with the Indian Standards Institution, "Manak Bhavan", 9 Mathura Road, New Delhi-1, and also at its branch offices at (i) 232 Dr. Dadabhai Naorji Road, Bombay-1, (ii) P-11 Mission Row Extension, Calcutta-1, and (iii) 2/21 First Line Beach, Madras-1.




[No. ML 13 : 2.]

S.O. 2620.—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark, for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the rules and regulations framed thereunder, shall come into force with effect from 1 November 1960.



## THE SCHEDULE

Sl. No.	Design of the Standard Mark	No. and title of relevant Indian Standard	Verbal description of the design of the Standard Mark
(1)	(2)	(3)	(4)
1.	<p>IS:651</p>  <p>IS:651</p>  <p>TESTED</p>	IS : 651-1955 Specification for Salt-Glazed Stoneware Pipes and Fittings	The monogram of the Indian Standards Institution consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the first design ; in the case of tested class the word 'Tested' being subscribed under the bottom side of the monogram as indicated in the second design.
2.	<p>IS:1133</p> 	IS : 1133-1958 Specification for Bicycle Bottom Bracket Fixed Cup	The monogram of the Indian Standards Institution, consisting of letters ISI, drawn in the exact style and relative proportions as indicated in column (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.

[No. MD/17:2.]

LAL C. VERMAN, Director.

## (Indian Standards Institution)

New Delhi, the 21st October 1960

**S.O. 2611.**—In pursuance of regulation 4 of the Indian Standards Institution (Certification Marks) Regulations 1955, the Indian Standards Institution hereby notifies that amendments to the Indian Standards given in the Schedule hereto annexed have been issued under the powers conferred by sub-regulation (1) of regulation 3 of the said regulations.

## THE SCHEDULE

Serial No.	No. & Title of the Indian Standard amended	No. & date of Gazette Notification in which the establishment of the Indian Standard was notified	No. & date of the amendment	Brief particulars of the Amendment	Date of effect of the Amendment
(1)	(2)	(3)	(4)	(5)	(6)
1.	IS : 193-1956 (Revised).	Specification for Soft Solder	S.R.O. 1796 dt. 1-6-57 Amendment No. 1 March, 1960.	(i) Existing clause 0.3 has been deleted and substituted by the following : '0.3. This standard was first issued as a tentative standard in 1950. Apart from providing for six additional grades of ordinary soft solder, this revised standard covers the requirements of four grades of soft solder specially meant for high temperature service. The limits of impurities of the various grades have been modified and certain requirements for manufacture, supplier's guarantee, sampling, etc., have also been included in the revision.' (ii) In clause 0.4, line 1 and line 5 please substitute the following : (a) 'Fourteen' for 'Nine' (b) 'fourteen' for 'nine'	1 November, 1960

(ii) Clause 0.4.1 has been added as a new sub-clause :

0.4.1 The chemical composition and physical properties of four grades of soft solder specially meant for high temperature service have been covered in Appendix B'.

(iv) Existing clause 1.1 has been deleted and substituted by the following :

'1.1 This standard covers fourteen grades of tin-lead and tin-lead antimony alloys commonly known as soft solder. In addition, in Appendix B, requirements pertaining to four alloys suitable for high temperature service have also been included'.

(v) In the existing Table I, the following has been inserted :

Grade	Tin Per cent	Antimony per cent	Lead
Sn 45 .	44—45	0.2 Max	Remainder
Sn 45 Sb	44—45	2.3 to 2.7	Remainder
Sn 35 .	34—35	0.25 Max	Remainder
Sn 19 .	19—20	0.2 Max	Remainder
Sn 18 Sb	18—5	0.75	Remainder
1.0			

(1)	(2)	(3)	(4)	(5)	(6)
-----	-----	-----	-----	-----	-----

(vi) Existing sub-clause 3.1.1 has been deleted and substituted by the following :

'3.1.1 *Impurities*— The impurities shall be within the limits given below :

	<i>Per cent Max</i>
Arsenic . . .	0.008
Iron . . .	0.01
Aluminium . . .	0.001
Zinc . . .	0.003
Cadmium . . .	0.005
Nickel . . .	0.002
Bismuth . . .	0.05
Silver . . .	0.02
Copper . . .	0.3
	<i>percent of tin content</i>

(vii) The following has been added at respective places in Appendix A, Table II :

Grade	Melting Range	Typical Uses	Characteristics
	Solidus° C    Liquidus° C		

<i>In second group</i>			
Sn 45	183	227	Copper-smith's and tin-smith's bit soldering ; general machine soldering (for example can end seams),
Sn 45 Sb	185	215	Moderately low melting point and short melting range.

*In third*

*group :*

Sn 35 183 247 Blowpipe soldering ; Higher melting  
soldering of side point and longer  
seams on high speed melting range.  
bodyforming machines.

*Separate group at the end :*

Sn 19 183 270 Dipping solder for Long melting or  
lamp manufacture. plastic range.  
Sn 18 Sb 185 275

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(ix) A new Appendix B has been included.

- |   |                                                                                                                  |                          |                                     |                                                                                                                                                                                                                                                                                                                                                                     |                 |
|---|------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 2 | IS : 395 -1959 Specification for Lead-Acid Storage Batteries (Light Duty) for Motor Vehicles ( <i>Revised</i> ). | S.O. 2374 dated 1-10-60. | Amendment No. 1<br>September, 1960. | In sub-clause 6.11.2. lines 4 and 5, existing second sentence has been deleted and substituted by the following :<br>'During charging, the temperature of the electrolyte shall not be allowed to exceed 43° C.'                                                                                                                                                    | 1 November, 60. |
| 3 | IS : 484-1958 Specification for Silica Refractories for General Purposes ( <i>Revised</i> ).                     | S.O. 2247 dated 1-11-58. | Amendment No. 1<br>August, 1960.    | (i) In clause 11.1, line 3, substitute '1670° C for '1630° C'.<br>(ii) A new test requirement has been added after 14.1.                                                                                                                                                                                                                                            | 1 November, 60. |
| 4 | IS : 1110-1957 Specification for Ferro silicon                                                                   | S.R.O. 50 dated 4-1-58.  | Amendment No. 1<br>August, 1960.    | Existing clause 2.1 has been deleted and substituted by the following:<br>'2.1 Unless otherwise mutually agreed to between the supplier and the purchaser, the material shall be supplied in sizes between 50 mm and 150 mm with the percentage of fines limited to 10 percent for grades FeSi 75, FeSi 72, FeSi 65 and FeSi 20; and 20 percent for grade FeSi 55.' | 1 November, 60. |

(1)	(2)	(3)	(4)	(5)	(6)
5	IS : 1180-1958 Specification for Outdoor Type Three-Phase Distribution Transformers Up to and Including 100 kVA 11kV.	S.O. 2464 dated 29-12-58.	Amendment No. 1 August, 1960.	Existing clause 3.1 has been deleted and substituted by the following :  '3.1 The no-load voltage ratios shall be as follows : 3 300/433 V 6 600/433 V 11 000/433 V.'	1 November, 60.

Copies of these amendment slips are available, free of cost, with the Indian Standards Institution, "Manak Bhavan", 9 Mathura Road, New Delhi -1, and also at its Branch Offices, at (i) 232, Dr. Dadabhai Naoroji Road, Fort, Bombay-1, (ii) P-11, Mission Row Extension, Calcutta-1 and (iii) 2/21, First Line Beach, Madras-1.

[No. MD/13 : 5.]

C. N. MODAWAL, Deputy Director (Marks).

**MINISTRY OF STEEL, MINES & FUEL**

(Department of Iron & Steel)

*New Delhi, the 22nd October, 1960*

**S.O. 2612/ESS.COMM/Iron & Steel-15(2) and 27(1)/AM32.**—The following Notification issued by the Iron and Steel Controller under Sub-clause (2) of Clause 15 of the Iron and Steel (Control) Order, 1956 is published for general information:—

**NOTIFICATION**

In exercise of the powers conferred by Sub-clause (2) of Clause 15 of the Iron and Steel (Control) Order, 1956 and with the approval of the Central Government, the Iron and Steel Controller is pleased to notify the following amendment to the Notification published under S.O. 2154.ESS-COMM/Iron & Steel-15(1) & 27(1)/AM(28) in Part II Sub-Section 3(ii) of the Gazette of India dated 3rd September, 1960:—

*Amendment*

For the 2nd para of the above quoted Notification substitute the following:—

'In respect of any metric size for which no extra has been notified, the applicable extra shall be the extra fixed for the nearest equivalent inch size as published by the Indian Standards Institution. But where a Metric size lies between two other Metric sizes for which the extras have been notified, the extra fixed for the nearer Metric size will apply to it.'

A. S. BAM,  
Iron & Steel Controller".

[No. SC(C)-2(120)/60.]

J. S. BAIJAL, Under Secy.

(Department of Mines & Fuel)

**ERRATUM**

*New Delhi, the 22nd October 1960*

**S.O. 2613.**—In the notification of the Government of India, in the Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) No. 2323 dated the 20th September, 1960, published in part II section 3, sub-section (ii) of the Gazette of India dated the 24th September, 1960, (i) in the sixth paragraph for the words "whole or any part of the lands or of any" after the article 'the' and before the word 'rights' the word "aforesaid" be substituted; (ii) under heading 'plot Nos. to be acquired in village Jaridih' for 114 read 1114; (iii) under the heading 'Boundary description LM and NO' for 3401 and 3683 read 2401 and 3583 respectively.

[No. F. C2-20(19)/60.]

B. ROY, Under Secy.

**MINISTRY OF FOOD AND AGRICULTURE**

(Department of Agriculture)

(Indian Council of Agricultural Research)

*New Delhi, the 15th October 1960*

**S.O. 2614.**—In exercise of the powers conferred by sub-section 2(1) of section 15 of the Indian Cotton Cess Act, 1923 (14 of 1923), the Central Government hereby makes the following further amendment to the Indian Cotton Cess Rules, 1923, namely:—

1. These rules may be called the Indian Cotton Cess (Amendment) Rules, 1960.

2. After sub-rule (3) of rule 12 of the Indian Cotton Cess Rules, 1923; the following shall be inserted as sub-rule (4), namely:—

“(4) The Committee shall have power to sanction expenditure not exceeding Rs. 5,000/- on minor schemes which are not anticipated at the time of framing the annual budget:

Provided that:

- (i) the schemes are in connection with the approved objects, such as, agricultural research, seed multiplication and distribution and the pattern of assistance is the same as approved by the Government of India for similar schemes; and
- (ii) the expenditure in question is met by diverting savings from within the sanctioned budget of the Committee.”

[No. 1-72/58-Com.II/IV.]

*New Delhi, the 24th October 1960*

**S.O. 2615.**—In pursuance of the provisions of Rule 26(4) of the Indian Oilseeds Committee Rules, 1947, framed under Section 17 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby publish the audited accounts of the receipts and expenditure of the Indian Central Oilseeds Committee for the year ending 31st March, 1959, together with the auditor's report thereon.

#### PART II—CURRENT

A statement showing the receipts and expenditure for the year 1958-59 prepared under Rule 26(a) of Rules and Regulations of the Central Oilseeds Committee Act of 1946 and checked by audit is enclosed. The receipts and expenditure statement revealed that the Committee is holding Rs. 1,15,87,953 at the close of the year. This huge amount is lying with the Committee in the shape of securities to the tune of Rs. 39,47,313 and with the State Bank of Hyderabad Rs. 76,40,640. These figures reveal large unutilised accumulation of money lying locked up with the Committee. During the last audit it was explained that unutilised balances were liable to diminish in near future. But the present accounts, produced to audit, revealed that there was an expenditure of Rs. 27,60,022 against a receipt of Rs. 25,38,890. The flow of expenditure against receipts during this year had also revealed that the money is locked up with the Committee. The position is brought to the notice of the Government.

*Para 2. Interest free loans to cooperative societies through State Government.*

(a) During last audit it was pointed out that a loan of Rs. 96,000 was advanced to three different Market Committees out of the Groundnut Fund by the Government of India in 1954-55. One of the Committee completed their project costing Rs. 6,108 some time in July 1955. Against a sum of Rs. 33,000 advanced to the Committee an unspent balance of Rs. 26,892 has not been recovered from the Committee so far, in addition to the instalments of the loan which were recoverable in ten yearly equal instalments falling due on 1st January, 1956 onwards.

(b) Similarly a loan of Rs. 1 lakh was paid to different societies through Bombay Government during the year 1953-54, and 1954-55. Rs. 24,000 on account of instalments of recoveries which fell due upto 1st January, 1960 are due. But no instalment at all has been recovered so far. Responsibility for non-recovery of these instalments may be fixed and desirability of charging interest in cases of belated instalments of the loan may be considered by the Government of India under intimation to audit.

(c) A loan of Rs. 10,000 was advanced to 4 cooperative societies through Manipur Administration. A sum of Rs. 3,400 had only been recovered, though these amounts should have been recovered till now as per statement A attached. The statement would reveal that recoveries of Rs. 3,400 had also been delayed for over a year or so. The Committee may consider the desirability of charging interest for belated instalment or the delay in recoveries may be got condoned under orders of the competent authority. Audit may be apprised of the final action taken in the matter.

(d) A sum of Rs. 36,000 was paid to 4 different Samithies through West Bengal Government as detailed in Statement B. The statement would reveal that a sum of Rs. 12,600 had only been recovered against Rs. 18,000 which ought to have been



recovered on due dates. A further scrutiny of the statement would reveal that instalments recovered so far have also been delayed for over a year or so. The delay in recovery of these instalments may also be condoned under orders of the competent authority under intimation to audit.

3. The Committee are sanctioning grant-in-aid to different Governments for different schemes sanctioned by the Government of India. The State Accountants General are required to certify the proper utilisation of grants sanctioned by the Committee during the year. It has been observed that in as many as 88 cases utilisation certificates to the tune of Rs. 20,17,370-14 nP. are still awaited from the State Accountants General. These audit certificates pertain to the years from 1951-52 onwards. This state of affair is brought to the notice of the Ministry as in the absence of these certificates it cannot be ascertained whether the above amount paid by the Committee for implementation of the schemes had properly been utilised for the purpose for which it was sanctioned. The Statement in respect of which audit certificates are awaited is enclosed as Annexure 'C'.

4. It was observed that temporary advances are being given to the staff members to meet expenditure in connection with certain meetings or other contingent charges. Accounts for such advances are being rendered after a considerable lapse of time. It is not clear as to why the accounts in support of such advances are not furnished by the respective members immediately after completion of the meeting or after incurring the expenditure. The matter is brought to the notice of the President of the Committee to ensure prompt submission of the accounts in support of such temporary advances.

(b) It was noticed that 2 advances amounting to Rs. 1,700 were paid to Shri J. D. Rao in December, 1958 to meet contingent expenditure in connection with the 12th Annual General Meeting held at Chandigarh during 8th to 16th December, 1958. Account in respect of these advances had not been rendered so far. The circumstances under which these accounts had not been rendered so far may please be explained and requisite accounts may be called for immediately from the individual.

5. The Ministry of Food and Agriculture in their letter No. 5-86/57-Com. I, dated the 10th March, 1958, had sanctioned re-employment of the Secretary with effect from 15th April, 1958. In this letter the Government of India had sanctioned that the Secretary was entitled to Rs. 1,000 p.m. the minimum of the scale of Rs. 1000-50-1400 subject to the condition that pay plus gross amount of pension and pension equivalent does not exceed last pay drawn. Under the rules then in force, it appears that pay plus pension etc. should not have exceeded the substantive pay last drawn by the Officer. The Government of India in their letter, dated the 31st May, 1958, had authorised the Secretary to draw his pay at Rs. 800 p.m. provisionally subject to an undertaking from the Secretary to refund the excess on final fixation of pay. The pension admissible to the incumbent has not been fixed so far and hence pay fixation is still to be finalised. Since the incumbent was allowed to draw pay at Rs. 1000 p.m. for the period from 15th April, 1958 to 31st May, 1958, the excess pay drawn by him for the above period may be recovered from him and credited to Government Account under intimation to audit.

6. Scrutiny of accounts of the Committee has revealed that work connected with publication and purchase of different dead stock registers is being entrusted to private parties by the Committee. In certain cases the quotations were called for while in other cases the quotations had not been called for. In the absence of quotations, it is not clear how the Committee are satisfied about the reasonableness of the rates charged for the supplies etc. It is therefore, suggested that quotations in support of purchases or any other work got executed from private parties may invariably be obtained and kept on record so as to authenticate the reasonableness of the rates paid by the Committee. Instances of this type are given below:—

(i) Date of purchase	Articles	Cost
2-12-1958	4 steel trunks	61.00
28-7-1957	1 wooden box for charts	25.00
23-1-1959	1 book show case	76.50

(ii) Photographic work has been entrusted to Central Studio without calling for any quotations.

(iii) A sum of Rs. 98-69 was paid on 29th November, 1959 for publishing 170 folders.

(b) It has also been observed that in certain cases the quotations were called for and the lowest had been ignored by accepting the next higher or still further higher quotations. The reasons for ignoring lowest quotations, had not been recorded and hence the infructuous expenditure incurred as a result of rejecting the lowest quotations requires justification. Instances of this type are given below:—

(1) The rates of Krishna Printing Press for printing 250 copies of agenda and programme of 12th Annual General Meeting. But the work was entrusted to M/s Osmania Printing Press at Rs. 9-25.

(2) The rates quoted by Vakeel and sons Private Ltd., Bombay were lesser than that of Examiner Press for printing Monographs. But the work was entrusted to Examiner Press.

(c) A scrutiny of the publication accounts revealed that M/s Examiner Press, Bombay quoted rate of 0-94 nP. per square inch for block making as per their quotations dated 11th December, 1957 called for at the time of printing "Atlas". The final bill paid under cheque No. 033555 dated 13th November, 1958 for Rs. 13,434-11 nP. showed that a rate of Rs. 1-00 per square inch had been allowed for making blocks. This had resulted in an over-payment of Rs. 297-75 nP. The higher rate for block making was not admissible. The amount overpaid to the Press may be recovered under intimation to audit. Similarly a sum of Rs. 52-22 nP. had been overpaid for block making through bill for Rs. 11,241-68 nP. on account of printing of monographs of "solvent Extraction" (name of monograph is solvent extraction). Recoveries in this respect may also be effected under intimation to audit.

(d) The publication work executed at Hyderabad had proved to be economical as against that got done at Examiner Press, Bombay. Besides the higher rates charged by Examiner Press, Bombay; the Committee has to bear additional expenditure on account of freight of publications and Travelling Allowance paid to publication Assistant and other officials who go to supervise the publication work. It is, therefore, suggested that the Committee may consider the desirability of getting their routine pamphlets and other proceedings of the meetings printed at Hyderabad instead of Bombay.

(6) Travel concession bill for Rs. 151-18 in respect of Shri Bruhaspati paid on 25th December, 1958, had revealed that the outward journey was performed on 3rd May, 1958. His family came to Hyderabad on 19th December, 1958. As per Sub-para (d) of Ministry of Home Affairs order No. 43/10/56-Est.(a), dated 11th April, 1958, return journey must be completed within six months from the date of commencement of the outward journey. But Shri Bruhaspati's family performed return journey on 19th December, 1958 and as such a sum of Rs. 50-30 nP. on account of travel concessions admissible to him has wrongly been disbursed. The amount may please be recovered under intimation to audit.

#### (7) Security Register

In respect of securities held by the Committee had not been produced to audit. In the absence of this register the correctness of the interest realisations with reference to the respective due dates could not be verified by audit. This register is an important record. It may please be kept ready for scrutiny by the next audit party.

(b) Stationery account and forms account, which were stated to have been sent to the Government of India in connection with some case, had not been produced to audit. In the absence of these records, purchases and issues of stationery articles and forms could not be verified by audit. These records may also be produced to next audit for scrutiny.

(8) Interest amounting to Rs. 1,750 in respect of 3½ per cent ten years National Saving Deposit Certificates worth Rs. 50,000 shown as paid on 9th February, 1959 as per entries in the face of the security has been taken into account on 8th

September, 1959. The reason for account of the interest after 7 months may please be investigated under intimation to audit.

9. The audit fee, due for recovery after making adjustment of the fees paid, during the years 1956-57 & 1957-58 comes to Rs. 430/-. The adjustment was made in accordance with Ministry of Finance O.M. No. F. 1(16)-B/59 dated 29th April 1959, F. 1(48)-E/59 dated 7th July 1959. An amount of Rs. 430/- may please be deposited in the State Bank of Hyderabad in favour of Director of Audit, Food, Rehabilitation, Supply, Commerce, Steel and Mines, New Delhi under intimation to audit.

10. A test audit note containing minor irregularities which could not be settled on the spot has been handed over to the Secretary for necessary action and showing compliance to the next audit party.

(Sd.) M. S. SARNA,  
Deputy Director of Audit.

# INDIAN CENTRAL OILSEEDS COMMITTEE

Statement of Accounts of Receipts and Expenditure for the year ending 31st March, 1959.

Receipts			Payment		
Amount	Total		Amount	Total	
Rs. nP.	Rs. nP.		Rs. nP.	Rs. nP.	
Opening balance on 1-4-1958 . . . . .			A. Administration of Indian Central Oilseeds Committee (As per Schedule I) . . . . .	2,83,917.72	
Book . . . . .	78,57,661.66		B. Travelling allowance to members . . . . .	30,955.74	
Imprest Cash . . . . .	252.00		C. Measures taken for promoting agricultural Research (As per Schedule II) . . . . .	11,72,096.22	
Securities . . . . .	39,47,312.50		D. Measures taken for promoting Technological Research (As per Schedule III) . . . . .		
TOTAL . . . . .	1,18,05,226.16	1,18,05,226.16	(a) Scheme financed from Committee's Funds . . . . .	1,70,268.00	
Cess collections under Section 3(2) of the Indian Central Oilseeds Committee Act 1946 . . . . .		22,89,346.50	(b) Category 'A' Schemes financed by the Govt. of India & C.S.I.R. . . . .	35,870.00	
Interest on Investments . . . . .		1,17,000.00		2,06,138.00	2,06,138.00
Profit on Investments . . . . .		220.45	E. Measures taken for promoting marketing. (As per Schedule IV) . . . . .		2,20,748.69
Miscellaneous Receipts . . . . .		11,134.00	F. Measures taken for promoting development of oilseeds crushing Industry (As per Schedule V) . . . . .		59,123.62
Grants from the Central Government from Linseed and Groundnut Funds . . . . .		3,916.26	G. Subsidies for Publication . . . . .		
Receipts from Research Schemes financed by the Indian Central Oilseeds Committee . . . . .		23,403.54	H. Deposits and Advances—refundable (As per Schedule VI) . . . . .	4,773.00	
Recovery of unspent balances of grants for schemes financed by the Indian Central Oilseeds Committee . . . . .			I. Construction of Office building etc. . . . .	7,87,109.60	
Recovery of Deposits and Advances—Refundable.—			TOTAL FROM 'A' TO 'I' . . . . .	27,64,862.59	
(a) Conveyance etc. . . . .	1,846.93		Investment of funds as on 31-3-1959.		
(b) Pay etc. . . . .			1. 3% Conversion Loan 1946-1986 . . . . .	4,96,093.75	
(c) Festivals . . . . .	2,473.00		2. 3½% Ten Year Treasury Saving Certificate . . . . .	50,000.00	
(d) Floods . . . . .	180.00				
(e) Building etc. of houses . . . . .					
(f) Loans advanced under schemes . . . . .	4,200.00				
	8,699.93	8,699.93			

Indian Oilseeds Journal Sale & Subscription  
 Receipt from Publications  
 Receipts towards advertisement in Indian Oilseeds Journal  
 Grant from the Central Government in respect of schemes for Technological Research on vegetable Oils during the Second Five Year Plan

2,831.12	3. Post Office National Savings Certificate	1,00,000.00
10,857.84	4. 2½ % Government of India Loan 1960	9,59,375.00
1,090.00	5. 3% (Second) Victory Loan, 1959-61	1,92,375.00
	6. 3% Govt. of India Loan 1964	4,62,968.75
	7. 2½ % Govt. of India Loan 1962	5,47,312.50
	8. 3% Govt. of India Loan, 1963-65	4,62,187.50
79,090.00	9. 3% (Second Victory Loan) 1959-65	4,80,000.00
	10. 3½ % National Plan Loan 1964	1,97,000.00

TOTAL . . . . . 39,47,312.50

39,47,312.50

Closing Balance on 31-3-1959

Bank	76,40,388.71
Imprest Cash	252.00

76,40,640.71

76,40,640.71

GRAND TOTAL OF RECEIPTS

Rs. 1,43,52,815.80

GRAND TOTAL

Rs. 1,43,52,815.80

Sd/- Local Audit Superintendent,  
 Director of Audit F.R.S.C.S. & M., New Delhi.

I have examined the foregoing accounts of India Central Oilseeds Committee, Hyderabad. I have obtained all the information and explanation that I have required and subject to the observations in the separate Audit Report/TA Note, I certify, as a result of my audit, that in my opinion these Accounts and Balance Sheet are properly drawn up so as to exhibit a true and fair view of the state of affairs of the concern according to the best of my information and explanations given to me and as shown by the books of the concern.

(Sd.) LAL SINGH,

Local Audit Officer,  
Camp Hyderabad.

[No. 8-100/60-Com. II.]

AJUDHIA PRASADA, Under Secy.

## MINISTRY OF HEALTH

*New Delhi, the 20th October 1960*

**S.O. 2616.**—In exercise of the powers conferred by clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby nominates Dr. G. C. Pattanayak, M.B., B.S., D.T.M., D.G.O., D.R.C.O.G., D.P.H., Director of Health Services, Orissa, to be a member of the Medical Council of India with effect from the 3rd October, 1960 *vice* Dr. D. R. N. Sahu resigned and makes the following further amendment in the notification of the Government of India in the Ministry of Health No. F. 5-13/59-M.1, dated the 9th January, 1960, namely:—

In the said notification, under the heading "Nominated under clause (a) of sub-section (1) of section 3" for the existing entry against serial No. 1, the following entry shall be substituted, namely:—

"Dr. G. C. Pattanayak, M.B., B.S., D.T.M., G.D.O., D.R.C.O.G., D.P.H.,  
Director of Health Services, Orissa."

[No. F. 5-13/59-M.1.]

KRISHNA BIHARI, Dy. Secy.

*New Delhi, the 21st October 1960*

**S.O. 2617.**—The following draft rules to amend the Drugs Rules, 1945, which the Central Government proposes to make in exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (23 of 1940), is published as required by the said sections for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 31st December, 1960;

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

### *Draft Amendment*

1. These rules may be called the Drugs (Amendments) Rules, 1960.
2. In the Drugs Rules, 1945.

(a) after rule 69-A, the following rule shall be inserted, namely:—

"69-B. Applications to manufacture 'new drugs' other than the drugs classifiable under Schedules C and C(1) products.—(i) No 'new drug' shall be manufactured unless it is previously approved by the licensing authority mentioned in rule 21.

(ii) The manufacturer of a 'new drug' when applying for approval to the licensing authority mentioned in sub-rule (i) shall produce all documentary and other evidence relating to its standards of quality.

purity and strength and such other information as may be required including the results of therapeutic trials carried out with it.

- (iii) While applying for a licence to manufacture a 'new drug' or its preparations an applicant shall produce along with his application evidence that the drug for the manufacture of which application is made has already been approved.

*Explanation.*—In this rule 'new drug' has the same meaning as in rule 30-A."

- (b) after rule 70-A, the following rule shall be inserted, namely:—

"70-B. *Grant of manufacturing licence.*—A licence to manufacture a 'new drug' shall be granted in Form 25 after the licensing authority is satisfied that the manufacturer has obtained the approval required under rule 69-B."

After rule 75-A, the following rule shall be inserted:—

"75-B. *Applications to manufacture 'new drugs' classifiable under Schedules C and C(1).*—(i) No 'new drug' shall be manufactured unless it is previously approved by the "licensing authority" mentioned in rule 21.

- (ii) The manufacturer of a 'new drug' when applying for approval to the licensing authority mentioned in sub-rule (i) shall produce all documentary and other evidence relating to its standards of quality, purity and strength and such other information as may be required including the results of therapeutic trials carried out with it.
- (iii) While applying for a licence to manufacture a 'new drug' or its preparations an applicant shall produce along with his application evidence that the drug for the manufacture of which application is made has already been approved.

*Explanation.*—In this rule 'new drug' has the same meaning as in rule 30-A."

- (c) after rule 76-A, the following rule shall be inserted, namely:—

"76-B. *Grant of manufacturing licence.*—A licence to manufacture a 'new drug' shall be granted in Form 28 after the licensing authority is satisfied that the manufacturer has obtained the approval required under rule 75-B",

- (d) to rule 89, the following proviso shall be inserted, namely:—

"Provided that in the case of a drug the composition of which is such that the drug is not generally recognised, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use, no licence in Form 29 shall be granted unless the applicant produces a certificate from the "licensing authority mentioned in rule 21, to the effect that there would be no objection to such licence being granted."

[No. F. 1-22/60-D.]

M. K. KUTTY, Dy. Secy.

## MINISTRY OF TRANSPORT & COMMUNICATIONS

(Department of Transport)

(Transport Wing)

PORTS

New Delhi, the 18th October 1960

**S.O. 2618.**—In pursuance of sub-section (2) of section 6 of the Calcutta Port Act, 1890 (Bengal Act III of 1890), it is hereby notified that in accordance with the provisions of section 15 of the said Act Sri Mahboob Kassim of M/s. M. K. Shipping & Chartering Co. Private Limited, Calcutta-I, has been elected by the

Oriental Chamber of Commerce to be a commissioner for the port of Calcutta with effect from the 7th October, 1960 vice Shri Khan Bahadur G. A. Dossani on leave.

[No. 9-PG(95)/60.]

Miss I. INDIRA, Under Secy.

**(Department of Transport)**

**(Transport Wing)**

**MERCHANT SHIPPING**

*New Delhi, the 25th October 1960*

**S.O. 2619.**—In exercise of the powers conferred by rule 5 of the Indian Merchant Shipping (Seamen's Employment Office, Calcutta) Rules, 1954, the Central Government hereby appoints Captain J. Paterson as a member representing the Shipowners on the Seamen's Employment Board at the port of Calcutta in place of Shri J. H. H. Ross who has since resigned and makes the following amendment in the Notification of the Government of India in the Ministry of Transport and Communications (Department of Transport) No. 15-MT(1)/59 dated the 9th July, 1959, namely:—

In the said notification, for entry No. 9, the following entry shall be substituted:—

"9. Captain J. Paterson."

[No. 15-MT(3)/60.]

S. K. VENKATACHALAM, Dy Secy.

**(Departments of Communications and Civil Aviation)**

*New Delhi, the 12th October 1960*

**S.O. 2620.**—In partial modification of Notification No. 20-CA(1)/60, dated the 23rd June, 1960, the Central Government, in consultation with the two Air Corporations, has appointed Shri B. D. Somani as a member of the Advisory Committee of the Indian Airlines Corporation, vice Shri Vallabhdas V. Mariwalla, and Shri Vallabhdas V. Mariwalla as a member of the Advisory Committee of the Air-India International Corporation vice Shri B. D. Somani.

[No. 20-CA(1)/60.]

K. K. UNNI, Dy. Secy.

**(P. & T. Board)**

*New Delhi, the 21st October 1960*

**S.O. 2621.**—In pursuance of para (a) of Section III of rule 434 of the Indian Telegraphs Rules, 1951 as introduced by S.O. 627, dated the 8th March, 1960 the Central Government hereby specifies the 1st day of November, 1960 as the date on which the measured rate system will be introduced at Akola Telephone Exchange.

[No. 11-5/60-PHC.]

S. MAHADEVA IYER,

Director of Telephones (E).

**MINISTRY OF REHABILITATION**

*New Delhi, the 24th October 1960*

**S. O. 2622.**—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the State of Bihar for public purpose being a purpose connected with the Relief and Rehabilitation of Displaced Persons including payment of compensation to such persons.



Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954) it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule.

## SCHEDULE

Sl. No.	Particulars of the Evacuee property	Locality/Vill. in which the property situate	Name of the evacuee
1	Holding No. 42 Ward No. III (As per partition effected in claim case No. 138 of '57 by the Competent Officer).	Mohalla Dhamitola, Gaya.	1. Sh. Zamil Mian 2. Akil Mian 3. Zail Mian sons of Md. Safi Vill. Pir-bigha P. S. Mufassil (Gaya).
2	Holding No. 24 Ward No. IV (as per partition effected in claim case No. 162/56 and 27/57).	Mohalla Bahadur Ali Lane, Gaya.	Mohamad Usman son of Madar Ali of Bahadur Lane, Gaya.
3	Holding No. 1 Ward No. IX	Mohalla Kartar Road, Gaya.	Mirza Mohd. Amir son of Mirza Wazir of Karimganj, Gaya.

[No.16(18)/58-Prop II Comp.]

## CORRIGENDA

New Delhi, the 29th October 1960

**S.O. 2623.**—In the Schedule annexed to the notification of the Government of India in the Ministry of Rehabilitation S.O. No. 2669 dated the 15th December, 1958 published at pages 2940-42 of Part II Section 3(ii) of the Gazette of India dated the 27th December, 1958.

- |                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. Against Serial No. 6<br/>for Sh. Gahanuddin<br/>read Fahim Uddin son of Rahim Bux.</p>                                                                                                                                                                                                                                                                                                 | <p>2. Against Serial No. 47<br/>for Sharif son of Nabi Bux<br/>read Allah Bux son of Rehmat Ullah.</p>                                                                                                                                                                                                                                                                                          |
| <p>3. Against Serial No. 49<br/>for Budhu son of Hira<br/>read Budhu son of Kura.</p>                                                                                                                                                                                                                                                                                                        | <p>4. Against Serial No. 92<br/>for Aziz-ul-Rehman, Mussamat Hadi Begum, Mussamat Rabia Begum, and Mussamat Shfiqa Khatoon,<br/>read Habib-Ul-Rehman, Abdul Ghani son of Fazal Illahi, Umar-Taqi, Shamas Ullah, sons of Barkat Ullah, Mussamat Sugra Jan and Begum daughters of Barkat Ullah, Mohammad Sayeed son of Islamuddin, Ahmed Mian son of Fakhar Mian, Qamar Din son of Sahib Din.</p> |
| <p>5. Against Serial No. 93<br/>for Azizul Rehman, Mussamat Hadi Begum, Mussamat Rabia Begum and Mussamat Shafiqa Khatoon,<br/>read Habib-Ul-Rehman, Abdul Ghani son of Fazal Illahi, Umar Taqi, Shamas Ullah, sons of Barkat Ullah, Mussamat Sugra Jan and Begum daughters of Barkat Ullah, Mohammed Sayeed son of Islamuddin, Ahmed Mian son of Fakhar Mian, Qamar D son of Sahib Din.</p> | <p>6. Against Serial No. 94<br/>for Azizul Rehman, Mussamat Hadi Begum, Mussamat Rabia Begum and Mussamat Shafiqa Khatoon,<br/>read Habibul Rehman, Abdul Ghani son of Fazal Illahi, Umar Taqi Shamas Ullah, sons of Barkat Ullah Mussamat Sugra Jan and Begum daughters of Barkat Ullah, Mohammed Sayeed son of Islamuddin, Ahmed Mian son of Fakhar Mian, Qamar Din son of Sahib Din.</p>     |

## 7. Against Serial No. 95

*for* Azizul Rehman, Mussamat Hadi Begum, Mussamat Rabia Begum and Mussamat Shafiq Kharoon.

*read* Habibul Rehman, Abdul Ghani son of Fazal Illahi, Umar Taqi, Shamas Ullah, sons of Barkat Ullah, Mussamat Sugra Jan and Begum daughters of Barkat Ullah, Mohammed Sayeed son of Islam Uddin, Ahmed Mian son of Fakhar Mian, Qamar Din son of Sahib Din.

## 8. Against Serial No. 96

*for* Azizul Rehman, Mussamat Hadi Begum, Mussamat Rabia Begum and Mussamat Shafiq Khatoon.

*read* Habibul Rehman, Abdul Ghani son of Fazal Illahi, Umar Taqi, Shamas Ullah sons of Barkat Ullah, Mussamat Sugra Jan and Begum daughters of Barkat Ullah, Mohammed Sayeed son of Islam Uddin, Ahmed Mian son of Fakhar Mian, Qamar Din son of Sahib Din.

[No. F.1(1218)58/Comp.III/Prop.]

**S.O. 2624.**—In the Schedule annexed to the notification of the Government of India in the Ministry of Rehabilitation S. No. 2356 published at pages 2208-2210 of Part II Section 3(II) of the Gazette of India dated the 15th November, 1958.

## 1. Against Serial No. 4

*for* Ghabi Ganj Kashmeri Gate  
*read* Chabi Ganj Kashmeri Gate.

## 2. Against Serial No. 26,

*for* X/294/94 AB/473.  
*read* X/294-94AB/473.

## 3. Against Serial No. 27.

*for* X/480A/608 & 617 widow of Akba Ali.  
*read* X/408A/608 & 617 widow of Akbar Ali.

[No. 1(1218)58/Comp.III/Prop.]

**S.O. 2625.**—In the Schedule annexed to the notification of the Government of India in the Ministry of Rehabilitation S.O. No. 1609 dated the 29th July, 1958, published at pages 1372-1376 of Part II Section 3(II) of the Gazette of India dated the 9th August, 1958.

## 1. Against Serial No. 5

*for* 1/181-182/326  
*read* 1/181/326 & 1/182/327-28.

## 3. Delete Serial No. 12 as 1/6037 (new) has already been auctioned as un-economic property.

## 5. Against Serial No. 21

*for* Nawab Begum Mst. Inyat Begum  
*read* Nur Mohammad.

## 7. Delete Serial No. 32 as the same has already been acquired.

## 9. Against Serial No. 38

*for* VI/422A, 28/997, 236  
*read* VI/422A, 128/997, 236.

## 11. Against Serial No. 81

*for* Sardar Jahan Begum  
*read* Sadar Jahan Begum.

## 13. Against Serial No. 87

*for* Aziz Hussain, Imtiaz Hussain Anwar Jehan  
*read* Ijaz Hussain Imtiaz Hussain and Anwar Jehan.

## 15. Against Serial No. 120

*for* Mohd. Ashjaq  
*read* Janat Bai.

## 2. Against Serial No. 9

*for* 1/460/07  
*read* 1/460/807.

## 4. Delete Serial No. 16 (Dispute is pending with the Civil Court).

## 6. Against Serial No. 28

*for* 111/471 & 472B/953-54 & 963-64  
*read* 111/471 & 473B/953-54 & 963-64.

## 8. Against Serial No. 36

*for* V/213/6704  
*read* V/213/704.

## 10. Against Serial No. 77

*for* Zecda Bi.  
*read* Zeeba Bi.

## 12. Against Serial No. 85

*for* Ijaz Hussain Imtiaz Hussain Anwar Jehan  
*read* Ijaz Hussain Imtiaz Hussain and Anwar Jehan.

## 14. Against Serial No. 102

*for* Ali Beg  
*read* Ali Bux.

## 16. Against Serial No. 155

*for* XIII/7876-77/1706 AB  
*read* XIII/7876-77 and 77AB/7106.

17. Against Serial No. 37  
for VI/341/827-31  
read VI/341/827-34.
19. Against Serial No. 73  
for VI/2916/5963-64  
read VI/2917/5965-66
21. Against Serial No. 82  
for VI/3142/6679  
read VI/3142/6635-36.

18. Against Serial No. 63  
for VI/1473/2907  
read VI/1469 and 1473.2901.
20. Against Serial No. 76  
for VI/2951A/6052-62  
read VI/2954A/6052-62.
22. Delete Serial No. 123 as it has subsequently  
been restored.

[No. 1(1218)-58/Comp.III/Prop.]

KANWAR BAHADUR,

Settlement Commissioner and *Ex-Officio*  
Dy. Secy.

### DELHI DEVELOPMENT AUTHORITY

*New Delhi, the 17th October 1960*

**S.O. 2626.**—In pursuance of the provisions of sub-section (4) of the Section 22 of the Delhi Development Act, 1957, the Delhi Development Authority has replaced at the disposal of the Central Government the land described in the schedule below:—

#### SCHEDULE

Land measuring 1.50 acres in Kilokri (Nehru Nagar), bearing khasra Nos. 1909.

The above land is bounded as follows:—

- North: Nazul land.
- East: Pacca Road.
- South: Link Road.
- West: Nazul land.

[No. L.2(26)60.]

B. C. SARKAR, Secy.

### MINISTRY OF LABOUR & EMPLOYMENT

*New Delhi, the 21st October 1960*

**S.O. 2627.**—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 30th October, 1960, as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force), and Chapters V and VI [except sub-section (1) of section 76 and sections 77, 78, 79, and 81 which have already been brought into force] of the said Act shall come into force in the following areas of the State of Kerala, namely:—

I. The areas within the limits of Tellicherry Municipal Town and the revenue villages of:—

- |                   |                   |
|-------------------|-------------------|
| (a) Dharmadoin;   | (i) Mattannur;    |
| (b) Kadiroor;     | (j) Mangatidam;   |
| (c) Kuttuparamba; | (k) Ambilat;      |
| (d) Eranholi;     | (l) Kurumbakkal;  |
| (e) Vadakkumbad;  | (m) Vattipuram;   |
| (f) Pinarayi;     | (n) Pattiyani;    |
| (g) Kodiyeri;     | (o) Eruvatty; and |
| (h) Pannur;       | (p) Pathiriyat    |

in Tellicherry Taluk in the Cannanore district.

II. The areas within the limits of Cannanore Municipal Town and the revenue villages of:—

- |                   |                     |
|-------------------|---------------------|
| (a) Pappinisseri; | (m) Azhikode;       |
| (b) Balipatam;    | (n) Kunhimangalam;  |
| (c) Chovva;       | (o) Kodanapalli;    |
| (d) Pannapara;    | (p) Ezhome;         |
| (e) Pallikunnu;   | (q) Madai;          |
| (f) Ramatheru;    | (r) Edakkad;        |
| (g) Podikundu;    | (s) Muzhappilangad; |
| (h) Chalat;       | (t) Chelora;        |
| (i) Chirakkal;    | (u) Iriveri;        |
| (j) Kizhunna;     | (v) Kalliassery;    |
| (k) Elayavoor;    | (w) Mattul; and     |
| (l) Puzhathi;     | (x) Katamboor       |

in Cannanore taluk in the Cannanore district.

III. The areas within the limits of Pappinisseri Panchyat and the revenue villages of:—

- |                   |                  |
|-------------------|------------------|
| (a) Payyannur;    | (d) Kelasseri;   |
| (b) Thaliparamba; | (e) Anthore; and |
| (c) Pariyaram;    | (f) Kayaralam,   |

in Thaliparamba taluk in the Cannanore district.

[No. F. HI-13(13)/60.]

BALWANT SINGH, Under Secy.

*New Delhi, the 22nd October 1960*

**S.O. 2628.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi, in the industrial dispute between the employers in relation to the National and Grindlays Bank Limited, Delhi and their workmen.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DELHI.**

**PRESENT**

Shri E. Krishna Murti, Central Government Industrial Tribunal.

*The 26th September 1960*

I.D. No. 596 of 1959

**BETWEEN**

The employers in relation to the National and Grindlays Bank Limited,  
Chandni Chowk, Delhi.

**AND**

Their workmen.

Major H. S. Brar—for the management.

Shri H. L. Parwana—for the workmen.

**AWARD**

By G.O. No. LR II-10(57)/59, dated 3rd November, 1959, the industrial dispute, between the employers in relation to the National and Grindlays Bank Limited, Chandni Chowk, Delhi and their workmen, has been referred to this Tribunal for adjudication under Sections 10(1)(d) and 12(5) of the Industrial Disputes Act, 1947.

2. The terms of reference are as follows.

- (i) Whether there was an agreement between the National and Grindlays Bank Ltd., and their employees as evidenced by the letters dated 28th June, 1954 written by the Secretary, National and Grindlays Bank Employees' Union and the Manager of the Bank dated 5th July, 1954 respectively to the effect—(1) that no adverse remarks

would be made in the personal files (service books) of the employees without permitting the employees concerned an opportunity to defend themselves and have the benefit of a regular enquiry into the case; and (2) where such an opportunity has not been afforded previous remarks so made stand expunged.

- (ii) If the answer to (i) above is in the affirmative whether the action of the bank in communicating adverse to their workmen without following the terms of the agreement mentioned above is in order.
- (iii) Whether the disciplinary proceedings taken against 6 employees of the Bank, namely, Sarvashri Prem Kishan Khanna, Rajinder Lal Syal, Inder Narain Kapoor, P. L. Chakrawarti, Devi Pershad Srivastava and Lajpat Rai Malhotra, resulting in their dismissal were in accordance with law and whether the initiation of the said proceedings and the dismissal of the said employees are valid and justified and if the same be not valid and justified to what relief are the said employees entitled?
- (iv) Whether the Bank is justified in not making an enquiry against the Manager and the Accountant in accordance with the provisions of Paragraph 517 of the Award of the All-India Industrial Tribunal (Bank Disputes) constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January, 1952, as modified by the decision of the Labour Appellate Tribunal in the manner referred to in section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955). If the answer is in the affirmative, to what relief are the workmen entitled?

3. It is alleged in the statement of claim filed on behalf of the National and Grindlays Bank Employees' Union, that all the terms of reference are inter related, that the Bank management have been indulging in unfair labour practice, and victimisation, that the National and Grindlays Bank used to have officers and managers, who suffered from anti-Indian out look, and were finding opportunities to spoil the personal service records of the office bearers and active employees of the National and Grindlays Employees' Union, by entering behind their back adverse remarks for their trade union activities, that the Union took up this matter that an agreement was entered into between the Bank and the Union, according to which it was agreed, that no adverse remarks would be made in the personal files of the employees without permitting the employees concerned an opportunity to defend themselves, that this agreement, which contains reference to other conditions of service also, was duly implemented, that Mr. G. W. Brown joined the Delhi Branch as Manager in December, 1957, that since then the Bank adopted an unhelpful attitude towards the employees, that the All India National and Grindlays Bank Employees' Federation called upon all its units to observe the demand day, that these were observed on 23rd and 26th March, 1959, that the Manager, Mr. G. W. Brown, became vindictive, and, with a view to spoil the service record of some of the employees entered adverse remarks in the service files of 12 employees, that these employees were then holding or had held in the past posts in the Union, that the adverse remarks were entered on the very first day, i.e., 23rd March, 1959, that the employees were not informed about the entry of the adverse remarks till the 28th, that the said remarks were derogatory, that the action of the Bank was contrary to the agreement, of 1954, that the Manager refused to accede to the request of the deputationists on 30th September, 1959, to expunge the adverse remarks, that on 31st March, 1959, the employees were illegally confined after office hours within the precincts of the Bank for about half an hour, that the employees lodged a protest against such unfair practice on 1st April, 1959, that however the Manager, Mr. G. W. Brown, and the Accountant, Shri T. B. Sarwal, used provocative, objectionable, and abusive language, that the deputationists protested against this unfair labour practice, that the 21 employees on 4th April, 1959 lodged a complaint in writing with the Bank Authorities against Shri G. W. Brown, and Shri T. B. Sarwal, demanding an enquiry against them under Paragraph 517 of the Sastry Award, for illegal confinement, and use of threatening and abusive language, that in the complaint the employees also voiced their apprehension about the charges, that were likely to be framed against them falsely, that no action was taken under Paragraph 517, in spite of reminders, that protests were lodged by other trade unions, that the said complaint however remained unattended, that even on 15th June, 1959, further complaints were lodged by the employees mentioning additional grounds, and demanding enquiry against Shri T. B. Sarwal, that the apprehension of the employees came true, that charge-sheets were

served against the six employees, whose names are found in the order of reference on 11th April, 1959, that the said charge were the same as were apprehended in the complaint dated 4th April, 1959, that the charge-sheets were served on account of ulterior motives, and with a view to victimise the employees for their trade union activities, that the charge-sheets were vague, that the charges are false, that Shri Sarwal was appointed as Enquiry Officer by the Bank, that this was against the rules of natural justice, that he was a biased persons, that the said Enquiry Officer purported to hold an enquiry, that the said enquiry was a farce, and a subterfuge, that the enquiry was neither fair nor impartial, that it is against the principles of natural justice, that ultimately the workmen were dismissed from service, that such action of the management is wrongful, that it was not done in good faith, that it is an act of unfair labour practice, and victimisation, that in spite of demands made for re-instatement the management did not re-instate the workmen, that the order of dismissal should be set aside, and that the workmen should be re-instated in service, together with back wages.

4. The contention on behalf of the Bank is, that the order of reference is bad, that it is *ultra vires*, that there is no agreement, as alleged, that, in any case, even if there was an agreement it was superseded by the Sastry Award, which came into force on 1st December, 1954, that the non-implementation of an award or settlement is not an industrial dispute, that no enquiry could be held against the manager and the accountant, when they are not workmen within the meaning of the Act, that the Sastry Award exhausted itself by efflux of time on 31st March, 1959, that the Union had themselves terminated it by 'two months' notice in April, 1959, that Shri P. L. Chakrawarti had been removed from the Union, that the Union is put to strict proof of the fact, that it had a right to represent him, that, in any case, there was nothing wrong in the action of the Bank, that there are several provisions in the Sastry Award for making adverse remarks in the service files, that these were strictly followed, that on 28th March, 1959, the letter, conveying the reports of the superior officers were delivered to the 12 employees concerned, that the employees demanded, that these letters should be withdrawn, that the manager addressed the whole staff in the Banking Hall of the Bank, and explained the position to them, that Shri Brown arranged on that day forgetting Shri Roy Chowdhri, Labour Relation Officer, to arrive here from Calcutta, that on 30th September, 1959 there was a demonstration over an hour at 10 A.M. in the Banking Hall, that Shri Roy Chowdhri arrived in the morning, that the Union representatives threatened direct action if the letters were not withdrawn, that, even though the management assured the employees, that these reports were not charges, levelled against them, still the employees, incited by their leaders, started leaving their place of work and assembling in the Banking Hall, and shouted slogans and acted in a disorderly manner, within the premises of the Bank, and during working hours, that this started on 30th September, 1959 and continued daily thereafter, that on 31st March, 1959 demonstrations were held in the morning in the Banking Hall, that it was reported that the Union had arranged for a large demonstration in the Bank Premises in the evening under the directions of the Federation, to which outsiders were invited, that as a protectional measure, shortly after 3 P.M. the Chowkidars were asked to keep the front and rear doors closed against the entries of outsiders, but allow the members of the staff free passage, that at 5 o'clock the demonstrations started, and shortly thereafter the management were accused of locking in the staff viz., about 21 out of 120 employees, though most of the staff had left at 5 P.M., that the demonstrators continued to demonstrate on that day, that the demonstrations continued on 1st April, 1959, that on 2nd April, 1959 the management placed two notices on the Notice-Board, that the employees were informed, that the remarks had been communicated with a view to give an opportunity to improve on their work, that the letters dated 23rd March, 1959 were not charge-sheets, that in spite of the notice and letter dated 2nd April, 1959, the shouting of slogans, holding of demonstrations, and disorderly behaviour, within the Bank premises, and during working hours, continued unabated, that charge-sheets were thereupon served against the employees now in question on 11th April, 1959, that explanations were called for, that an enquiry was held by Shri Sarwal the Enquiry Officer, that all the employees had more than ample opportunity to participate in the enquiry, and defend themselves, that they continued to sabotage the enquiry proceedings in various ways, that they were dismissed on 2nd July, 1959, that the employees went on strike from noon onwards on 23rd June, 1959, that it continued thereafter till 20th July, 1959, that on 4th April, 1959 the employees addressed a letter to the General Manager in London, asking for an enquiry against the Manager and Accountant for their alleged rude behaviour and for locking in the employees for half an hour on 31st March 1959, that, assuming, without admitting, that these actions were true, they were outside the ordinary course of discharge of duties, that the officers are not workmen, within

the meaning of the Act, that there can be no industrial dispute in respect of this matter, that the complaint, made by the workmen against the officers is false, and frivolous, that the provisions of paragraph 517 are not applicable to the facts of the case, that due to continuous disorderly behaviour and disturbances during working hours, the Bank had no option but to issue the notices dated 16th April, 1959, forbidding the holding of meetings of the Union in the Bank premises, and to inform the police to stand by for an emergency, that the appointment of the Enquiry Officer and the Appellate Authority are perfectly valid, that the same person could be the charge-sheeting authority, the Enquiry Officer, and the authority to inflict punishment, that the workmen wanted to by-pass the issue and sabotage the enquiry by wrongly invoking the provisions of paragraph 517 of the Sastry Award, and by stating, that they wanted to produce the manager and the accountant as their witnesses, that the Enquiry Officer followed the principles of natural justice that the allegations made by the employees about the conduct of the enquiry are not true, that the employees were taking frivolous objections before the Enquiry Officer, that the persons, who were present during the course of the enquiry as observers were the Labour Relation Officer and the Notary Public, that it was not the duty of the Enquiry Officer to supply copies of the proceedings to the employees, that it is not true, that the employees were not served with notice of the dates of enquiry, that letters were sent to the persons charged by registered post, to the addresses registered with the Bank, that, in spite of this, the employees failed to appear on the dates specified in the notice, that letters were also tendered to the employees, when they visited the Bank to collect their subsistence allowance, and many a time they refused to accept them, that the Enquiry Officer gave sufficient opportunity to the employees to participate in the enquiry, defend themselves and disprove the charges against them, that at every stage the workmen wanted to sabotage the enquiry, that they had full opportunity to defend themselves, that, if they failed to do so, they had only themselves to blame, that the Enquiry Officer followed the correct procedure in good faith, that it is not true, that the Enquiry Officer closed the proceedings on the 23rd June, with the announcement of dismissal to the six employees, that the letters were prepared on 24th June, but service could not be effected till 27th June, that the action of the management is *bona fide*, that the order of dismissal cannot be set-aside, and that the workmen are not entitled to reinstatement, or to any other relief.

**5. The following issues were framed:—**

- (1) Whether there was an agreement between the National & Grindleys Bank Ltd., and their employees as evidenced by the letters, dated 28th June, 1954 written by the Secretary, National & Grindleys Bank Employees' Union and the Manager of the Bank, dated 5th July, 1954 respectively to the effect (1) that no adverse remarks would be made in the personal files (service books) of the employees without permitting the employees concerned an opportunity to defend themselves and have the benefit of a regular enquiry into the case; and (2) where such an opportunity has not been afforded previous remarks so made stand expunged?
- (2) If the answer to (1) above is in the affirmative, whether the action of the bank in communicating adverse remarks recorded in the course of the annual reports to their workmen without following the terms of the agreement mentioned above is in order?
- (3) Whether the disciplinary proceedings taken against 6 employees of the Bank, namely, Sarvashri Prem Kishan Khanna, Rajinder Lal Syal, Inder Narain Kapoor, P. L. Chakrawarti, Devi Pershad Srivastava, and Jaijit Rai Malhotra, resulting in their dismissal were in accordance with law, and whether the initiation of the said proceedings, and the dismissal of the said employees are valid and justified, and if the same be not valid, and justified, to what relief are the said employees entitled?
- (4) Whether the Bank is justified in not making an enquiry against the Manager and the Accountant in accordance with the provisions of Paragraph 517 of the Award of the All India Industrial Tribunal (Bank Disputes), constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January, 1952, as modified by the decision of the Labour Appellate Tribunal in the manner referred to in Section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955)? If the answer is in the affirmative, to what relief are the workmen entitled?

- (5) Whether Items No. (i), (ii), and (iv) of the order of reference, dated the 3rd November, 1959, constitute an industrial dispute? If the answer to the above is in the negative, whether the order of reference in respect of these items is legal and intravires the appropriate Government?
- (6) Whether the reference of this dispute in respect of Shri P. L. Chakrawarti at the instance of the National & Grindlays Bank Employees' Union is not legal and intra vires?
- (7) If the letters, referred to above, constitute an agreement, is it not enforceable in view of the provisions of Paragraph 516 of the Sastry Award, as contended by the management?
- (8) Whether the action of the National and Grindlays Bank Ltd., Chandni Chowk, Delhi, in communicating the remarks recorded in the course of Annual Reports by their superiors to the employees without following the term of the said alleged agreement, is wrongful, and/or unjustified, as contended by the workmen?
- (9) Whether Paragraph 517 of the Sastry Award does not apply in the present case, as contended on behalf of the management?
- (10) To what relief are the workmen entitled?

*Issue No. 5.*

6. This is a dispute between the employers in relation to the National and Grindlays Bank Limited, Chandni Chowk, Delhi, and their workmen.

7. It relates to the demand for re-instatement of six workmen, whose names are set out below, and who were formerly employees of the National and Grindlays Bank Limited, Chandni Chowk Branch.

1. Shri Prem Kishan Khanna.
2. Shri Rajinder Lal Syal.
3. Shri Inder Narain Kapoor.
4. Shri P. L. Chakrawarti.
5. Shri Devi Pershad Srivastava.
6. Shri Lajpat Rai Malhotra.

8. This issue raises the question, whether Items (i), (ii), and (iv) of the order of reference, dated the 3rd November, 1959, constitute an industrial dispute, and whether the order of reference in respect of these is legal.

9. On behalf of the Bank a petition (I.A. No. 23 of 1960) was filed, stating, that Issues No. 5, and 6 went to the root of the matter, and that they should be tried as preliminary issues. The following order, dated the 15th February, 1960, was passed on this petition:—

“This is a petition, praying, that issues No. 5, 6, and 7 may be treated as preliminary issues, and that they may be disposed of in the first instance, before calling upon the parties to lead evidence.

2. This application has been preferred by the management of National & Grindlays Bank Limited.

3. The dispute, between the National and Grindlays Bank Limited, and their workmen, as represented by the National & Grindlays Bank Employees' Union, has been referred for adjudication. The terms of reference are as follows:—

- (i) Whether there was an agreement between the National & Grindlays Bank Ltd., and their employees as evidenced by the letters, dated the 28th June, 1954, written by the Secretary, National and Grindlays Bank Employees' Union and the Manager of the Bank, dated the 5th July, 1954, respectively to the effect (1) that no adverse remarks would be made in the personal files (service books) of the employees without permitting the employees concerned an opportunity to defend themselves and have the benefit of a regular enquiry into the case; and (2) where such an opportunity has not been afforded previous remarks so made stand expunged.
- (ii) If the answer to (i) above is in the affirmative, whether the action of the bank in communicating adverse remarks recorded in the course



of the annual reports to their workmen without following the terms of the agreement mentioned above is in order.

- (iii) Whether the disciplinary proceedings taken against 6 employees of the Bank, namely, Sarvashri Prem Kishan Khanna, Rajinder Lal Syal, Inder Narain Kapoor, P. L. Chakrawarti, Devi Pershad Srivastava and Lajpat Rai Malhotra, resulting in their dismissal were in accordance with law and whether the initiation of the said proceedings and the dismissal of the said employees are valid and justified and if the same be not valid and justified to what relief are the said employees entitled?
- (iv) Whether the Bank is justified in not making an enquiry against the Manager and the Accountant in accordance with the provisions of Paragraph 517 of the Award of the All India Industrial Tribunal (Bank Disputes) constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January, 1952, as modified by the decision of the Labour Appellate Tribunal in the manner referred to in Section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955). If the answer is in the affirmative, to what relief are the workmen entitled?

4. It is not necessary for the purpose of this petition to set out the contentions on either side in detail. The case on behalf of the workmen is, that the disciplinary proceedings taken by the Bank against the six employees, referred to in Item No. 3 of the reference, resulting in their dismissal, are illegal, and invalid, and that they are entitled to re-instatement together with compensation for forced unemployment. The contention on behalf of the Bank is, that the dismissals in question are quite legal, and justified, and that there is nothing wrongful or illegal about them.

5. On the contentions of the parties the following issues were framed:—

Issues No. 1—4 are as in the terms of reference.

- (5) Whether Items (i), (ii), and (iv) of the order of reference, dated the 3rd November, 1959, constitute an industrial dispute? If the answer to the above is in the negative, whether the order of reference in respect of these items is legal and intra vires the appropriate Government?
- (6) Whether the reference of this dispute in respect of Shri P. L. Chakrawarti at the instance of the National & Grindlays Bank Employees' Union is not legal and intra vires?
- (7) If the letters, referred to above, constitute an agreement, is it not enforceable in view of the provisions of Paragraph 516 of the Sastry Award, as contended by the management?
- (8) Whether the action of the National and Grindlays Bank Ltd., Chandni Chowk, Delhi, in communicating the remarks recorded in the course of Annual Reports by their superiors to the employees without following the term of the said alleged agreement, is wrongful, and/or unjustified, as contended by the workmen?
- (9) Whether Paragraph 517 of the Sastry Award does not apply in the present case, as contended on behalf of the management?
- (10) To what relief are the workmen entitled?

6. In this petition the prayer on behalf of the Bank is, that Issues No. 5, 6, and 7, dealing with the question raised in Items No. 1, 2, and 4 of the reference, should be dealt with and decided as preliminary issues. The case of the Bank is, that these raise a question of jurisdiction of this Tribunal, to proceed with the adjudication, and that, therefore, they must be decided at the outset.

#### Issue No. V

7. Briefly stated, the case of the workmen is that there was an agreement between the management of the Bank and the workmen in 1954, according to which it was agreed (i) that no adverse remarks would be made in the personal files (service books) of the employees without permitting the employees concerned to have an opportunity to defend themselves, and to have the benefit of a regular enquiry into the case, and (2) where such an opportunity had not been afforded previous remarks so made should stand expunged. This 1954 agreement was duly implemented by the Bank as from 5th July, 1954. No adverse remarks were being made, without following the procedure, as laid down under the

agreement, and, when any remarks has been made in spite of the agreement, no reliance was placed by the Bank then on the said adverse remarks.

8. The Bank however stopped adhering to the agreement in spite of protest by the workmen, and adopted a policy of bias against the Union, and the members thereof. In March, 1959, the Manager of the Delhi Branch of the Bank entered arbitrarily certain adverse remarks against the service files of 12 employees. The adverse remarks were entered on 23rd March, 1959. The Manager did not inform the employees concerned about the entry of the said service remarks.

9. A deputation of the Union Executive Committee met the Manager on 30th March, 1959, and lodged with him a protest against the entry of adverse remarks, as being against, the 1954 agreement, and the provisions of paragraph 521 of the Sastry Award. On 30th March, 1959 the Manager refused to accede to the request of the deputationists to the expunging of the said remarks. Again, the employees lodged a protest, but without avail.

10. The workmen have alleged in their statement of claim, that the Manager and the Accountant used provocative, objectionable and abusive language. The employees represented, that they would lodge a report against the Manager and the Accountant with the Head Office Authorities, demanding an enquiry against them under the provisions of the Bank Award. About 21 employees on 4th April, 1959 lodged a complaint in writing with the Bank Authorities against the said Manager and Accountant, demanding an enquiry under Paragraph 517 of the Sastry Award, for illegal confinement and use of abusive and threatening language. The management however did not hold any enquiry, and thus violated the provisions of Paragraph 517 of the Sastry Award. The management singled out 6 leaders of the Union, and served charge-sheets on them on 11th April, 1959, and they were also suspended on the same day. After a farce of an enquiry, the workmen were dismissed. The contention on behalf of the Union is, that the disciplinary proceedings, taken against the six employees, resulting in dismissal, after an enquiry, which was a farce, is illegal, that the Bank has violated the rules of natural justice, and also the provisions of the Sastry Award, that these disciplinary proceedings are invalid, and should be set aside, and that they must all be re-instated, with back wages, and that also the adverse remarks made should be directed to be expunged.

11. The various allegations that have been made on behalf of the Union, as above, are denied on behalf of the Bank. It is contended, that the agreement alleged is not true, and that the other allegations, accusing the management of bias and prejudiced attitude against the Union, are all unfounded. It is also pleaded, that the action taken by the management is perfectly proper and valid in law, and that there are no grounds for interference with the orders of dismissal, passed against the workmen in question.

12. The contention, that has been raised before me by Major Brar on behalf of the management is, that Items No. 1, 2, and 4 of the reference do not constitute an industrial dispute, that the reference is *ultra vires*, and that this Tribunal has no jurisdiction to entertain this dispute. It is urged, that Issues No. 5, 6, and 7 should be argued as preliminary issues, as they have a bearing on the question of jurisdiction. I quite agree, that any matter, which goes to the root, of the jurisdiction of this Tribunal to proceed with the reference, must be tried as a preliminary issue.

13. Both parties have addressed arguments in respect of Items No. 1, 2 and 4 of the reference, and on the question, whether these items constitute an industrial dispute, and whether the reference is valid.

14. Taking first Item No. 1 of the reference, it raises the question about the truth of the 1954 agreement, alleged by the Union in their statement of claim, and more particularly set out above, in regard to the making of adverse remarks against the employees. The contention of Major Brar is, that this agreement is alleged to depend on two letters, and that there can be no industrial dispute in respect of the same. I am unable to uphold this contention. The question of the truth of the agreement has to be decided after the evidence has been led, and considered. Whether the letters in question and relied upon by the workmen, spell out an agreement or not is a matter of construction. It is important to note, that the alleged agreement is said to relate to the making of adverse remarks against the workmen, i.e., the said agreement is put forward in connection with the employment and conditions of service of the workmen. Disputes, relating to the truth of the alleged agreement and its effect, do constitute an industrial

dispute within the meaning of the definition in Section 2(K) of the Industrial Disputes Act. It may be noticed, that in the decision in Indian Hume Pipe Co. Ltd. (1959 II LLJ 357) and Brahmachari Research Institute (1959 II LLJ 840), it was held by the Supreme Court, that the question of construction of a gratuity agreement could be considered in an industrial dispute. Shri Parvana has also relied upon the decision in Pipraich Sugar Mills Ltd. (XI FJB 262), as showing, that the Supreme Court considered the truth and effect of the agreement, that was relied upon therein, and that this shows, that such a question constitutes an industrial dispute. In my opinion, there is an industrial dispute in respect of item No. 1 of the reference, and the reference in respect thereof is valid.

15. It is conceded on either side before me, that Item No. 2 is consequential on Item No. 1, and, there is no doubt, that Item No. 2 also raises an industrial dispute, and that the reference is valid in respect thereof.

16. So far as Item No. 4 is concerned, the question raised therein is, whether the Bank was justified in not making an enquiry against the Manager and the Accountant, under paragraph 517 of the Sastry Award.

17. The contention on behalf of the management is, that this question does not raise an industrial dispute, because that relates to implementation of an award, namely, the Sastry Award, and that the workmen's remedy is under Section 29 of the Industrial Disputes Act. I am unable to up-hold this contention. Section 29 is one of the remedies prescribed for non-implementation of an award by the management. That lays down a penalty for not carrying out the terms of an award. It is important to see, that the Sastry Award as modified by the Labour Appellate Tribunal, and Act 41 of 1955, governs the conditions of service of the employees of the Bank, till it is superseded. The contention on behalf of the workmen is, that the management, in failing to have an enquiry against the Manager and the Accountant, of the Bank did not follow the provisions of Paragraph 517 of the Sastry Award, that the disciplinary action taken by them against the six employees in question, flows from the representation made by the Union for such enquiry, and that this is a relevant factor to be taken into consideration in assessing the validity and legality of the dismissal of the workmen, whose names are mentioned in Item No. 3. Viewed in this light Item No. 4 also raises an Industrial Dispute.

18. It is argued on behalf of the workmen by Shri Parvana, that Item No. 4 is not only intimately connected with Item No. 3 but also intimately connected with Items No. 1, 2, of the reference, and that each of them is intimately connected with the others. Item No. 3 does raise an industrial dispute. It concerns the orders of dismissal passed against the six employees in question. The case of the workmen is, that this unlawful action was taken, because the Union persisted in their demand for enquiry against the Manager and the Accountant, as they passed adverse remarks, contrary to the alleged agreement of 1954, and para 521, of the Sastry Award. In my opinion, all the Items No. 1, 2, and 4 are so intimately connected with Item No. 3 of the reference that none of them can be decided dehors the other. The workmen have pleaded the agreement of 1954, and also the non-observance of the provisions of Paragraph 517 and 521 of the Bank Award as having a vital bearing on the question of the validity of the dismissal of the six workmen. The workmen have drawn attention to the alleged agreement of 1954, and the provisions of the Bank Award in Paragraph 517 and 521 to sustain their contention, that the management took action against the six workmen, because they insisted on the Bank conforming to the terms of the said agreement, and the provisions in the Award. These are among the reasons put-forward by the workmen for their stand, that the dismissal is unlawful. It is not possible or legitimate to isolate piecemeal, Items No. 1, 2, and 4 from Item No. 3, and then contend, that they by themselves do not constitute an industrial dispute. In my opinion, all the four should be read together. Items 1, 2, and 4 of the reference represent the various contentions of the workmen, in support of the plea, that the dismissal is not valid. In my opinion, Items No. 1, 2, and 4 do raise an industrial dispute in relation to the conditions of service of the workmen, as laid down in the Bank Award, and the reference in respect thereof is valid. I find, that Items No. 1, 2, and 4 raise an industrial dispute, that the reference is valid, and that this Tribunal has jurisdiction to proceed with the reference in respect of all Items of reference and issues framed.

*Issue No. 7*

19. So far as this issue is concerned, this will depend upon the truth of the alleged agreement raised in Item No. 1. No question of enforceability of the agreement would arise before that of the truth of the agreement is decided. This:

question cannot be decided at the present moment straight-away without evidence.

*Issue No. 6*

20. The objection is next raised, that Shri P. L. Chakrawarti had been removed from his post in the Union, or had resigned from the Union, and had served his connection with the Union, and its office bearers, and that, therefore, the Union, was put to strict proof as to which of the employees were represented, and which were not by the Union. The question, whether the dispute of Shri P. L. Chakrawarti is only an individual dispute, or whether it is an industrial dispute, will have to be decided after the evidence is led and considered. This cannot be straight-away disposed of, as contended on behalf of the management.

21. It is important to note, that there can be no piece-meal determination of the questions raised by the reference. I have referred to the fact, that all the terms of reference are so intimately connected with each other, that one cannot be disposed of without reference to the other. The central fact to be noticed is, and the important question to be decided is, about the dismissal of six workmen, and Items No. 1, 2, and 4 are intimately connected with the same. All of them have to be tried together. I have found above, that Items No. 1, 2, and 4 do raise an industrial dispute, and that the reference is valid in respect thereof. Therefore, there is no question, that this Tribunal has jurisdiction to adjudicate on all the terms of reference. There is no gain saying the fact, that mere piece-meal determination of the matters in dispute is not in the interest of justice, and would merely lead to delay in the disposal of the proceeding, which is neither desirable, nor proper in the interest of either party.

22. After having regard to all the circumstances, placed before me, in this petition, I find on Issue No. 5, that Items No. 1, 2 and 4 of the reference do raise an industrial dispute, that the reference in respect thereof is valid, that this Tribunal has jurisdiction to adjudicate on the dispute raised by all the several Items of reference, and that the entire matter should be heard and disposed of together, Issues No. 6 and 7 are left open for future determination, as the determination thereof depends on the evidence to be adduced at the trial. The parties should go to trial in respect of all the issues except Issue No. 5.

23. For further hearing of the matter, 17th February 1960."

Thus it has been held, that Items (i), (ii), and (iv) do raise an industrial dispute. Therefore the order of reference is legal and *intra vires* the appropriate Government.

*Issue No. 6.*

10. In the order referred to above it was however, decided, that Issue No. 6 depended on the evidence to be led at the time of trial, and, therefore, it was left open.

11. The contention raised on behalf of the Bank is, that Shri P. L. Chakrawarti had been removed from his post in the Union, or had resigned from the Union, and that there is only an individual dispute in respect of Shri P. L. Chakrawarti, and that there is no industrial dispute. In this connection reference has been made to Exts. M/509, 510, 511, 512, and 513. Ext. M/512 is a letter dated 17th September 1959 intimating the Manager of the Bank, that Shri P. L. Chakrawarti had been removed from the Assistant Secretaryship of the Union, and also the membership of the Union by the Executive Committee. This was sent on behalf of the National and Grindlays Bank Employees' Union. Ext. M/510 is a letter addressed by Shri P. L. Chakrawarti dated 19th September 1959, and this purports to be a rejoinder, to a circular, and Shri Parvana for the workmen has referred to Ext. M/511 as the circular in question. The documents above referred to, show internal rivalry between Unions. Subsequently the dispute was made up, and Shri P. L. Chakrawarti was admitted back as a member, with retrospective effect. Ext. W/561 is a copy of the letter dated 19th October 1959, to the President of the Bank Employees' Union, regretting his past action, and reiterating his loyalty to the Union. Ext. M/562 dated 27th October 1959 is the letter from the General Secretary of the Union, intimating, that the Union had agreed to restore his membership retrospectively. More important still, what is contended before me is, that his cause has been taken up by the Federation, and that this is sufficient to convert the individual dispute into an industrial dispute. It is not even necessary, that a registered body should take up a workman's cause to make it an industrial dispute as is laid down in *News Papers Ltd.*, (1960 II LLJ 37). The workman's cause has

been taken up not only by the National and Grindlays Bank Employees' Union of Delhi, but also by the All India Bank Employees' Federation. This is sufficient espousal to convert an individual dispute into an industrial dispute. I find, that there is an industrial dispute even in respect of Shri P. L. Chakrawarti and that the order of reference in respect of him also is valid.

Issues No. 1, 2, 3, & 7 & 8.

12. According to the case of the workmen, formerly there were two separate banks, namely, National Bank of India, and the Grindlays Bank. According to the evidence of Shri T. B. Sarwal, MW 6, Accountant of the Bank, the amalgamation of the two banks took place on 1st January 1958. There is a document, about the terms and conditions of service after amalgamation. Ext. W/416 is a copy of a circular, issued on behalf of the National Bank of India, and the Grindlays Bank Limited, making it clear, that the amalgamation would not alter the terms of service of the staff of the National Bank of India, and that there would be no retrenchment of staff. The members of the then staff of the Grindlays Bank Limited were offered employment in the amalgamated bank on the same terms and conditions generally, as those ruling for the staff of National Bank of India Limited, on the understanding, that salary, emoluments, and other terms of employment would in no case be less satisfactory than those existing in the Grindlays Bank Limited.

13. It would appear, that the 6 employees, with whom we are now concerned in this reference, were formerly employees of the National Bank of India, and they became employees of the National & Grindlays Bank Limited after amalgamation. At the time of happening of the events, with which we are concerned in this dispute, the six employees, were workmen of the Chandni Chowk Branch of the Bank. It would also appear, that at the time of happening of the said incidents there were about 120 employees in all in the Branch, including administrative and supervisory staff.

14. From the evidence it is also clear, that the 6 employees were active members of the Union, and were holding or had held in the past executive posts in the Union of the Bank Employees. According to the evidence of Shri T. B. Sarwal, Shri Rajinder Lal Syal was General Secretary, Shri P. L. Chakrawarti was Assistant Secretary and Shri Prem Kishan Khanna was the Treasurer. The others were members of the executive committee. Shri Sarwal says, that he does not know, if Shri Devi Pershad Malhotra was a member of the Executive Committee. It is in the evidence of these employees, that they were all active members of the Union.

15. These six employees were served with charge-sheets on 13th April 1959. Ext. M/7 (W. 196), is a copy of the charge-sheet, that was served on Shri Devi Pershad Srivastava. It is as follows:—

- "1. On 30th March, 1959, 31st March, 1959, 1st, 2nd, 3rd, 4th, 6th, 7th, 8th and 9th April, 1959, in the Bank's premises, during office hours, you behaved in a disorderly manner, by leaving your place of work, shouting slogans, and holding demonstrations, thereby completely disrupting the work of the Bank.
2. You were warned by a notice dated 2nd April, 1959, not to indulge in such behaviour, but in spite of the said notice you persisted in indulging in disorderly behaviour thereby willfully disobeying the lawful and legitimate orders of the management.
3. You instigated other members of the staff to join in this disorderly behaviour, which is an act subversive of discipline."

It was stated by the management, that the above acts constituted gross misconduct under Paragraph 521(4) of the Sastry Award, and that the workman should supply his explanation within 3 days of the receipt of the charge-sheet. The workman was also directed to present himself before Shri T. B. Sarwal on 16th April, 1959 at an enquiry, which was to be held at the office. The workman was further informed, that he might bring his evidence, oral, or documentary, which he might wish to produce in his defence. In default, the proceedings of the enquiry would be held *ex-parte*. Pending enquiry, the workman was suspended, with immediate effect.

16. Ext. W/31 is the charge-sheet, that was served on Shri Rajinder Lal Syal, and it is couched in the same language as Ext. M/7, except, that Shri Syal is also accused of having made speeches on the dates mentioned above.

17. Then we have Ext. W/94, which is a charge-sheet against Shri Inder Narain Kapoor. The first and second items of charge are the same, as in Ext. W/31, except, that there is no mention of the workman having made speeches. Again, there is no mention of Item No. 3 about instigation of other workmen.

18. Ext. W/148 is the charge-sheet against Shri P. L. Chakrawarti, and the language is the same as in Ext. W/31.

19. Ext. W/242 is the charge-sheet against Shri Lajpat Rai Malhotra, and it is the same as Ext. W/196.

20. Ext. W/1 is the charge-sheet against Shri Prem Kishan Khanna. So far as the first item of charge is concerned, the workman was accused of indulging in disorderly behaviour on 30th March, 1959, 31st March, 1959, 1st, 2nd 3rd, 4th, 6th & 11th April, 1959. There is omission of alleged incidents on 7th, 8th and 9th of April, but there is addition of 11th April in this charge-sheet, which is not the case in the other charge-sheets. This workman was also accused of having delivered speeches. Items 2 and 3 of the charge-sheet are the same as in Ext. W/31.

21. Explanations were given by the concerned workmen. Ext. W/2 is that of Shri Khanna, Ext. W/32 of Shri Rajinder Lal Syal, Ext. W/95 of Shri Inder Narain Kapoor, Ext. W/149 of Shri P. L. Chakrawarti, Ext. W/197 of Shri Devi Pershad Srivastava, and Ext. W/243 of Shri Lajpat Rai Malhotra. The above-mentioned explanations are all addressed to the Manager of the Bank. It is worth stating, that in all the explanations given on behalf of the workmen, they protested against Shri Sarwal, and Accountant of the Branch, issuing the charge-sheets. The following words occur therein.

"He has been guilty along with your of having locked me in side the Bank after office hours for half an hour on 31st March, 1959. Besides, he abused me and insulted me. I have asked for an enquiry both against him and you under Paragraph 517 of the Sastry Award. He is thus a party against me. I have no confidence against him. Justice shall be denied to me. This is clear from the memorandum itself. In the 5th paragraph of the said memorandum, he had already given out his mind, by using the following words.

"The above acts of yours constitute gross mis-conduct under Paragraph 521(4) of the Sastry Award."

This reveals his biased mind, and, therefore, he should be removed immediately." After denying the actions attributed to them, the workmen further stated, that the Union had asked for an enquiry by letter dated 4th April, 1959 under Paragraph 517 of the Bank Award, against the Manager and Shri Sarwal, for having illegally confined the employees, along with others, on 31st March, 1959, for half an hour after office was closed, and for using abusive language, and calling them names, that no enquiry had been instituted, and that it was note-worthy, that Shri T. B. Sarwal, an officer, against whom the workmen had grievance, and in whose impartiality they had no faith, had appointed himself as an Enquiry Officer. The workmen asserted, that he could not be both prosecutor and judge. The workmen further stated, that the charge-sheets had been served against them out of vindictiveness, and malice, on account of their trade union activities, and that any enquiry, that was conducted, would be unlawful, and it would not be binding on the workmen. Those allegations are found in all the explanations, that were given by the several workmen.

22. According to the management's case, Shri T. B. Sarwal held an enquiry on various dates, commencing from 16th April, 1959. Exts. M/1—6 have been produced as containing the record of enquiry. Ext. M/1 relates to Shri Malhotra, Ext. M/2 to Shri Devi Pershad, Ext. M/3 to Shri Kapoor, Ext. M/4 to Shri Chakrawarti, Ext. M/5 to Shri Khanna, and Ext. M/6 to Shri Syal.

23. The above-mentioned books contain under date 17th June 1959, the findings said to have been arrived at by the Enquiry Officer, holding the workmen guilty of the charges against them. These are loose, typed sheets, pasted in the Enquiry Registers.

24. All the workmen were dismissed from service by order dated 2nd July, 1959. Ext. W/29 dated 2nd July, 1959 is the order of dismissal against Shri Khanna. The Enquiry Officer note therein, that in the letter of 17th June, 1959 the workman had been advised, that he had been found guilty of the charges mentioned in the charge-sheet, that the workman had been given several opportunities for a hearing

with regard to the nature of the proposed punishment, that no extenuating circumstances had been produced, that in the letters of 22nd June, 1959 and 2nd July, 1959 the workman had merely repeated false allegations, regarding the conduct of the enquiry and the Enquiry Officer's competency, that the Enquiry Officer was not *functus officio*, that, as advised in the letter dated 24th/27th June, 1959, it was decided to give the workman a further and final opportunity of hearing on the 2nd July, that there were no circumstances for mitigation of punishment, that, on the contrary, the mis-conduct had been aggravated by the workman's conduct during the enquiry proceedings, and that the proposed punishment of dismissal was confirmed. The same wording is found in the other dismissal orders.

25. It would appear, that the workmen of the Bank on a strike from 23rd June, 1959, and that it went on till 30th July, 1959, on which date there was an agreement, according to which it was called off.

26. The contention on behalf of the workmen is, that the dismissal of the 6 employees now in question is wrongful and unjustified and in bad faith, and it is also an act of unfair labour practice, and victimisation, against the active members of the Union. It is urged, that the charge-sheets were issued because of vindictiveness and malice, on the part of the Manager and the Accountant of the Bank.

27. In support of their contention, the workmen have made elaborate reference to the back ground, that preceded the issuing of the charge-sheets as having a material bearing on the facts of the case, and it becomes necessary to refer to the same. According to the workmen's case, the management of the Bank were not well disposed towards the office bearers, and the active members of the Union, because of the various demands made by the Union for redress of the grievances of the employees. The Bank had been indulging in unfair labour practice and vindictiveness as it did not like the genuine trade union activities of the employees. Some of the officers of the Bank, who were foreigners, with anti-Indian out-look were finding opportunities to do harm to the employees, who were the office bearers and the active members of the Union, by entering adverse remarks against them in their service records. With a view to debar the said office bearers, and union leaders from promotion, and with a view to supersede them by promoting junior employees, adverse remarks were being made against the employees for their trade union activities. The Union, therefore, took up the issue of entering of adverse remarks in the service files behind the back of the employees, with the management. After lengthy correspondence and agitation, an agreement was reached between the National Bank of India and its employees. In pursuance of this agreement, the National Bank of India Employees' Union, Delhi State addressed a letter, Ext. W/426, on 28th June, 1954. It is mentioned therein, in the preamble, that in pursuance of the discussions, which, the deputation of the employees, consisting of Shri Rajinder Lal Syal, the General Secretary, and also the President, and others, had with the Manager, and Shri J. A. Harvie, Accountant who was also present at the time, a gist of the discussions held, and the agreement arrived at, was communicated in the letter. The Union requested the Manager to give his confirmation. There are a number of matters referred to therein, and Item 8 relates to service files. It is in the following terms:—

"It was agreed, that no adverse remarks would be made in their personal files, without permitting the person concerned an opportunity to defend himself, and without the benefit of a regular enquiry into the case. It was further agreed, that the previous remarks, where such an opportunity had not been afforded, stand expunged."

Ext. W/427, dated 5th July, 1954 is the reply to Ext. W/426, sent by the Manager of the National Bank of India to the General Secretary, National Bank of India Employees' Union, and it is as follows:—

"We are in receipt of your letter of 28th ultimo, and confirm that we are in accord with the gist of the arrangement out-lined by you, and these are having our attention.

With regard to paragraph 5 of your letter, any correspondence with Head Office in this connection must be passed through the medium of the Branch Manager.

With reference to Shri Jacob, Shri Khanna informed, that he does wish to utilize his service from 1st July."

28. The contention on behalf of the workmen is, that the above documents prove the existence of a firm and enforceable agreement between the Bank and their workmen, according to which it was definitely agreed, that no adverse remarks would be made in the personal files of any of the employees, without

permitting the person concerned an opportunity to defend himself, and without the benefit of an enquiry into the case, and that, where such an opportunity had not been afforded, the remarks would be expunged. The case of the workmen is, that this agreement embodied a condition of Service which was valid even after amalgamation, and that it was violated by the officers of the Bank subsequently in 1959. According to their contention, Shri G. W. Brown took office as the Manager of the Delhi Branch in December, 1957. Ever since he took charge, he was indulging in unfair labour practice, even going to the extent of fabricating records, with a view to harm the employees' interests. The office bearers and active workers of the union, were being insulted by the officers of the Bank. The All India National and Grindlays Bank Employees' Federation, which is an All India Organisation of the National and Grindlays Bank Employees, to which are affiliated trade unions of the National and Grindlays Bank Employees, all over the country, including the Delhi Unit, decided to hold its all India Council Meeting, with a view to determine the ways and means of fulfilment of the pending demands, and urge upon the Bank to negotiate and settle the outstanding differences between them and their employees. The said Federation called upon all its units to observe the Demands Day on two days by wearing badges, and support the demands, which had been long pending. The Demands Days were observed in Delhi Branch on 23rd March, 1959 and 26th March 1959, the intervening days 24th and 25th March, 1959 being Holi holidays. No action was taken by the officers of the other branches, but in the Chandni Chowk Branch, the Manager, Mr. G. W. Brown became vindictive, and, with a view to spoil the career of the employees, had adverse remarks entered in the service files of certain employees, who were then office bearers, or who had held posts in the Union previously. The employees, against whom such adverse remarks were made as shown in Ext. W/384, "Annexure C" of the claim statement are Sarvashri (i) Shiv Narain, (ii) Daya Shankar, (iii) Devi Pershad, (iv) S. R. Sharma, (v) R. N. Sharma (vi) P. L. Chakrawarti, (vii) Davinder Nath Bhalla, (viii) Rajinder Lal Sval, (ix) Inder Narain Kapoor, (x) Mool Narain Seth, and (xi) Ramesh Chand Seth. Ext. W/351 to 372 relate to the letters containing the adverse remarks sent to the several workmen and their replies protesting against the same Exts. W/373 to 375 are communications addressed by the union to the manager in regard to the said adverse remarks.

29. With reference to the 4 employees, who are involved in this reference, the adverse remarks entered are these:—

"(3) Devi Pershad—unsatisfactory clerk. Does the barest minimum, lazy, and unreliable.

(6) P. L. Chakrawarti—most unpunctual in his attendance, regarding which he has been spoken to and his attendance has now improved. A lack of willingness is, however, very evident, and the standard of his work has suffered. This however, he has the ability to rectify, if he desires. (8) Rajinder Lal Sval—posts his ledgers satisfactorily, if a bit untidily, but does the minimum work possible. A bad time-keeper. Less than satisfactory. (9) Inder Narain Kapoor—an average clerk, who does his own work satisfactorily, but in somewhat careless manner. Barely satisfactory."

30. The Union's contention is, that the adverse remarks were entered on the very first day of the Demand Day, i.e. 23rd March, 1959. They were communicated to the concerned employees on 28th March, 1959. Ext. W/373, dated 30th March, 1959, is a letter addressed to the Manager, by the General Secretary of the Union, in regard to the said adverse remarks. It is stated therein, that the charges levelled and recorded in the service records of the employees concerned, without an investigation had been scrutinised, that the said charges were baseless and false, that the authorities had levelled these charges for the first time, that never throughout the service period such things had ever been pointed out, that one of the employees had been called "unreliable" which was most derogatory and insulting, that the Bank felt pleasure in indulging in unfair labour practices, and that the Manager of the Bank should expunge these remarks. The manager put up a notice Ext. W/493, dated 2nd April 1959, intimating that the adverse remarks were not charge-sheets and were not intended to be used as such. Thereupon the Union wrote Ext. W/374, for expunging these remarks.

31. The case of the Union is, that the adverse remarks were made in the service files, contrary to the agreement of 1954, reached between the Bank and its employees, that the action taken by the Bank *malà fide*, and was adopted with a view to victimise the office bearers of the Union, and that the adverse remarks were made without any enquiry, and without giving any opportunity



to the workmen to defend themselves. As March 29th was a closed day, being a Sunday, a deputation of the Union Executive Committee met the Manager, Shri G. W. Brown, on 30th March 1959, and lodged with him a protest, that the entry of the adverse remarks was contrary to the 1954 agreement, and also to the provisions of Paragraph 516 and 581 of the Sastry Award. That a deputation did meet him, is admitted by MW5, Shri Roy Chaudhary. A letter, dated 28th March 1959, also was given to the Bank, protesting against the remarks and the management were requested to withdraw the same. The Manager, Mr. G. W. Brown, on 30th March, 1959 refused to accede to the request of the Deputationists, to expunge the said remarks. On the other hand, the police were called in. The workmen's case is that on 31st March 1959, the management confined the employees illegally after office hours, by locking all doors for about half an hour, and also used objectionable language. Thereupon the employees lodged a protest against such unfair labour practice, and illegal action of the management on 1st April 1959, but the Manager, Mr. Brown, and the Accountant, Shri Sarwal, used objectionable provocative and abusive language. Thereupon the employees told them, that they would lodge a report against Manager and the Accountant, with the Head Office Authorities, demanding an enquiry against them, according to the provisions of the Sastry Award. A protest to this effect was recorded by the Union on 2nd April 1959. Ext. W/374, dated 2nd April 1959, is a letter sent to the Manager, which contains allegations about the alleged wrongful restraint of the employees on 31st March 1959. Therein it was stated, that the doors of both sides had been locked after 2 P.M., that they had remained closed upto 5.35 P.M., and that it was only when the staff objected, that the doors were unlocked. It is also mentioned in that letter, that the Manager had gone to the extent of threatening Shri Chakrawarti "you will see what I have in store for you". He also declined to talk to the Executive Committee, so long as it consisted of the present members, and he threatened them, with dire consequences. There is reference to the letter put up on the notice board on 2nd April 1959, by the management. The Manager was requested to have the remarks expunged.

32. The Union also informed the Manager, that the employees were writing to the Head Office, and requested co-operation from the management, and 21 employees on 4th April, 1959 lodged a complaint in writing against Shri G. W. Brown, and Shri T. B. Sarwal, demanding an enquiry against them under Paragraph 517 of the Sastry Award, for illegal confinement, and use of threatening and abusive language. Ext. W/377 is a copy of the complaint dated 4th April 1959, which is addressed to the General Manager, National and Grindlays Bank Limited 26, Bishop's Gate, London, signed by 21 employees of the Bank. Among these are Sarvashri Syal, Chakrawarti, Srivastava, Malhotra, Khanna, and Kapoor, the six employees, now in question. The first allegation therein is that Shri Brown and Shri Sarwal had illegally confined the complaints on 31st March 1959, for half an hour after office hours, by locking all the doors of the Branch, and not allowing them to go out of the Bank premises. The second complaint is that both the officers used abusive language against them, and called them bad names. The General Manager was requested to institute an enquiry against the two officers under Paragraph 517 of the Sastry Award. It is also asserted that the complaints apprehended, that, if this was not done immediately, there was likelihood of the situation deteriorating, and of the Manager becoming more aggressive by implicating the office bearers and active workers of the National and Grindlays Bank Employees Union in certain cooked up charges, in order to hide his own guilt. The following sentence occurs:—

"It can well be understood, that the alleged charges to be framed will be of the usual nature, that the persons concerned behaved in a disorderly manner, leaving their place of work, shouting slogans, delivering speeches, and holding demonstrations, thereby completely disrupting the work of the Bank, in spite of warning, and instigating other members of the staff to join the disorderly behaviour which is an act subversive of discipline, etc. etc." The General Manager was requested, to suspend the two officers, so that the employees may get justice, and the officers concerned would not be in a position to further abuse their official position. Subsequently the charge-sheets dated 11th April 1959, were served against the workmen. It is important to note, that the language of the charge-sheets is similar to the remarks quoted above, and made by the workmen in their complaint.

33. There were numerous letters by the Union, protesting against the charges, Exts. W/375, 376, 377, 378, 380, 382, 383, 384, 385, and 386. In these documents the Union took exception to the suspension of the 6 employees. Ext. W/386,

dated 29th April 1959, is a letter addressed to the Branch Manager with copy to London containing a list of press statements. Ext. W/387 is a copy of a Press Statement issued by certain Unions. Ext. W/389 is a copy of the letter sent on behalf of 23 employees, calling upon the Manager to withdraw the charge-sheets, and expunge the adverse remarks.

34. It will be re-called, that a letter was sent to the General Manager at London, demanding an enquiry against the Manager, Mr. Brown, and Shri Sarwal, dated 4th April 1959, on behalf of the workmen, i.e., Ext. W/377. The reply thereto by the local manager Mr. Brown, is Ext. W/390 dated 29th April 1959. Therein the manager asserted, that the action taken, was neither unjustified, nor illegal, and that the suspension of the six employees was as a result of disciplinary action taken against them, and that it had no connection with the alleged adverse remarks. The allegations, against the Manager, and Shri T. B. Sarwal, were characterised as being untrue. They did not use such language as could be described as threatening and abusive. The allegation, about illegal confinement, was denied. It is stated therein, that the doors of the Bank were closed for preventing outsiders from entering the Bank premises, that on the day in question the employees were at liberty to go out and come in as they pleased, and the staff at the entrance had been given orders to that effect. Many of the employees had left the Bank at 5 P.M. Those, who remained, could have left at any time. The doors were opened at 5-20 P.M., and when the employees were asked why they did not go, Shri Malhotra replied, that they did not want to go. It was reiterated, that the Manager was authorised to take such action, as was necessary, as a result of the indiscipline experienced, and that the management were fully competent to proceed with the enquiry against the six employees. The charge, that the appointment of Shri T. B. Sarwal as Enquiry Officer, was illegal, was denied. On behalf of the workmen comment is made upon the fact, that this reply came after a long interval had elapsed after the original complaint, dated 4th April 1959, had been sent to London. The Union and the workmen continued to protest against the action of the management in Exts. W/382, 383, 384, 385, 386, 388, 389, 392, 393, 395, 410, 411, 412 and 413.

35. Reference may be made to Exts. W/417 to 420, the letters sent to the General Manager of the Bank at London, by the All India National Overseas and Grindlays Bank Employees' Association from their office at Calcutta. In Ext. W/421 dated 5th June 1959, direct action was contemplated.

36. Attention may be drawn to a protest on behalf of certain of the Bank's constituents, contained on the back of Ext. W/397. It was asserted therein, that, contrary to the agreement, the management had entered adverse remarks in the service files of 12 employees, that the employees had approached the management for peaceful settlement of the dispute, that it was unfortunate, that the police had been called in by the management, that much resentment had prevailed, that the employees were getting support from all Sections of the people, including Corporation Councillors, Members of Parliament, Political Parties, and other Organisations, and that in the interests of the Institution, and cordial relations, the six employees should be reinstated, and the adverse remarks expunged. Ext. W/405 is a copy of the Press statement, issued by the Delhi Municipal Corporation Councillors, supporting the cause of the workmen, and protesting against alleged police excesses, and unjustified acts of the management. Ext. W/407, dated 13th May 1959, is a copy of a memorandum, addressed to the Honourable Minister for Labour and Employment by 33 Members of Parliament, and it was requested, that steps should be taken to get the victimised employees reinstated, and the dispute settled, so that a strike may be averted. Ext. W/406 is the letter of the Union, forwarding this to the London Office. Ext. W/409 is a memorandum, dated 14th May 1959 by certain Members of Parliament, addressed to the Honourable Home Minister Government of India. Exts. W/410-415 are protests by the workmen's Union.

37. Nextly, reference has been made to various communications, addressed to The Hon'ble Shri Gulzari Lal Nanda, Minister for Labour and Employment, by the workmen's Union and Federation. These are Exts. W/430, 433, 494, 495, 497, 499, 501, 502, 503, 504, 507, 509, 534, 538, 540, 541 and 543. Certain letters were addressed to the Secretary, Government of India in the Ministry of Labour, in the matter of violation of Paragraphs 517 and 521 by the management of the Bank, namely Exts. W/517, 518, 519, 521, 522, 524, 526, 527, 528, 529, 530, 532 and 533. Ext. W/531 is a resolution passed at the general body meeting of the Federation regarding the strike, by the employees of the Bank. Communications were sent to the Honourable Prime Minister of India, and these are Exts. W/550 to 552. Again we have letters, addressed to the Honourable Home Minister, Government

of India. In Ext. W/567, dated 13th April, 1959, the workmen not only protested against the action of the management, but also against the presence of police in uniform, and plain clothes, and also C.I.D., men who had been placed at the managements disposal. They prayed that the police should be directed to be withdrawn. A telegram also was sent to the Honourable Home Minister, regarding the same. Exts. W/570 and 572 and 573 are other communications addressed to the Honourable Home Minister. Ext. W/569 is a hand-bill dated 26th April 1959, protesting against the alleged police excesses, and Exts. W/563 and 564 are posters, that were exhibited in this connection.

38. It will be useful at this stage to refer to the correspondence, that went on with the London Office of the National and Grindlays Bank Limited. I have already referred to Ext. W/377, the complaint, that was sent to the London Office of the Bank against Shri Brown and Shri Sarwal. Ext. W/307 is a letter, forwarding the complaint dated 4th April 1959. Ext. W/308 is also the complaint dated 4th April 1959, signed by the 21 workmen in question. In Ext. W/309, the London management acknowledged the receipt of the complaint, and intimated the Union, that the Delhi Manager had been addressed on the subject. Ext. W/311, dated 13th April 1959 is another letter addressed to the London Office, reiterating the complaint, and demanding immediate intervention, and action against the Manager and the Accountant. Ext. W/313 is a reminder to the London Office, dated 27th April, 1959. There is reference therein, to the fact, that one Mr. Gibson had arrived in Delhi on 17th April, 1959, that it was expected that he would bring about a settlement of the dispute, that however, he had threatened the employees, when approached on 21st and 22nd April, 1959, that Mr. Gibson had refused to listen to their complaint, and that the Union learnt, that he had left. It was further written by the Union, that on 22nd April 1959, the Bank premises gave the appearance of a battle field, and that there were 300 policemen, armed with tear gas, lathis, and guns, and that threats of disciplinary action were held out against the employees. Ext. W/314 is the letter, dated 23rd April 1959, by the London Office to the Union. It is written therein, as follows:—

“We have to point out that these charge-sheets and suspension orders have been properly issued by our manager as a result of the refusal on the part of the members of the staff concerned to comply with legitimate orders to desist from unruly demonstrations which were disrupting the efficient conduct of the business of the Branch. In taking this action, the manager of the branch was performing an unpleasant duty forced upon him as a result of the insubordinate action of certain members of the staff. In doing so, he has our full support”. Ext. W/316 is the letter, dated 29th April 1959, addressed to London, pointing out various irregularities. The Union wrote, that, in spite of the gravest provocation afforded by the Manager, the Union people had displayed utmost patience and exercised extreme restraint, and that, if the Head Office supported the unjustified and illegal action of the manager, it could safely be concluded, that the employees could not get justice from the higher authorities, who were determined to protect their manager. The London Office was requested to reconsider the matter. Ext. W/317 dated 5th May 1959 is the reply to the Union, and intimation was given that, as already advised, unruly demonstration and insubordinate action of six members of the staff had resulted in the manager of the branch having had the unpleasant duty forced upon him, of issuing the charge-sheets, and suspension orders, which were asked to be withdrawn, and that the Head Office was fully satisfied, that the action, which was taken by the Delhi Branch manager in an endeavour to re-establish a degree of discipline at his branch, was reasonable, and in accordance with the procedure laid down in the Sastry Award, and that accordingly he had the full support of the Head Office. Ext. W/318, dated 11th May 1959, is another letter addressed to the London Office, and the Union hoped, that a broad impartial and unbiased view would be taken by the Head Office, in undoing the wrong done by the Delhi Manager. Ext. W/321 dated 15th May, 1959, is a letter of the London Office, and there is mention therein of the fact, that the Delhi Manager had reported to the Head Office fully on the position, and that his reports were at variance with the allegations contained in the Union's letters. Then the following sentence occurs:—

“After showing a great deal of forbearance to numerous acts of insubordination on the part of certain members of the staff, Mr. Brown considered it necessary to take certain steps to restore discipline

and so enable the Bank's business to be conducted in a normal manner. These steps, which accord with the procedure laid down, have as already advised to you, our full support". Ext. W/322, dated 22nd May 1959, is a further letter sent on behalf of the Union to London. In this letter the Union pointed out, that the Bank had flouted the provisions of Paragraph 517 of the Sastry Award, as no enquiry had been held against the Manager and Shri T. B. Sarwal, and that encouraged by the support of the London Office, the Manager and the Accountant, who were acting as Appellate Authority and Enquiry Officer respectively were committing unwarranted and illegal actions in the matter of enquiry, and that it had been reduced to a farce. It was also said, that Mr. Brown had issued a circular in the course of the enquiry, holding, the six employees as being guilty of the charges, even though the enquiry had not yet been completed. Ext. W/323 is another letter, dated 22nd May 1959, demanding enquiry against the Manager and the Accountant. Ext. W/324 is another application for an enquiry, signed by the 21 workmen. Exts. W/325 and 326 are further letters, that were sent by the workmen to the London Office. Ext. W/327 is a copy of a complaint that was sent to the London Office dated 25th May 1959, signed by 103 constituents. The list of constituents is found in Ext. W/328. This memorandum of the constituents was forwarded to the London Office, as seen from Ext. W/329. Ext. W/332 is the reply of the London Office dated 26th May 1959, acknowledging the receipt of the communication signed by 21 members. The Head Office reiterated its view, communicated in the previous letters. Ext. W/333 is another letter, that was sent on behalf of the Union, dated 3rd June 1959, and the Union pointed out that there was a legal obligation to hold an enquiry against the management. Ext. W/335 is a letter, dated 15th May 1959, by the London Office, sent to the Secretary of the National and Grindlays Bank Employees' Union at Bombay. Therein it was stated that the Delhi Manager had fully reported on the position, and that, after showing a great deal of forbearance, to numerous acts of insubordination on the part of certain members of the staff, Mr. Brown considered it necessary to restore the Bank's business to normal, and that the procedure followed, had their full support.

Ext. W/341 is the letter, dated 26th May 1959, sent to the London Office by the All India Bank Employees Association, pointing out various acts by which the management had mis-used and abused its powers in the matter of the action taken against employees. We may also take note of other complaints against dated 15th June 1959 i.e., Ext. W/79 for example.

38. The contention on behalf of the Union is, that the action taken by the Bank is not at all warranted, and that order of dismissal, passed against the six workmen in question is illegal, and must be set aside. It is well settled by the decision of the Supreme Court in Indian Iron and Steel Co. Ltd. (1958 1 LLJ 260), that an Industrial Tribunal does not sit as a Court of appeal against the action taken by the management. At the same time, the Tribunal can interfere with the action taken by the management, if there is want of good faith, if the enquiry is against the principles of natural justice, and there is a basic error of fact and if the findings arrived at by the management are perverse or baseless. The same view was reiterated in the decision in G. Mackenzie & Co. Ltd., (1959 1 LLJ 285), as follows:—

"It is for the management to determine what constitutes major mis-conduct within its standing orders, sufficient to merit dismissal of a workman. But in determining such mis-conduct, it must have facts upon which to base its conclusions, and it must act in good faith without caprice or discrimination, and without motive of vindictiveness, intimidation, or resorting to unfair labour practice. There must be no infraction of the established rules of natural justice. When the management does have facts, from which it can conclude mis-conduct its judgment cannot be questioned provided the above-mentioned principles are not violated. In the absence of these facts, or in case of violation of the principles set out above, its decision is untenable". The latest decision in Doon Dooma Tea Co. (1960 2 LLJ 53) also lays down the same principles.

39. The contention on behalf of the Union is two-fold. Firstly, the evidence, that has been adduced and the material on record, do not at all support the action taken by the Bank, and on the evidence it must be held that the charges are baseless. Secondly it is contended, that even apart from the above, all the ingredients laid down in the decisions, above cited, are present and vitiate, the action taken by the management.

40. Taking the first contention, the management state, that they held an enquiry into the charges against the workmen, and Exts. M/1-6 have been produced as the original registers relating to the enquiry held by Shri T. B. Sarwal. However at the time of trial of this dispute, the management filed a petition for permission to adduce further evidence in this proceeding. This petition is I.A. No. 41 of 1960, and dated 10th March, 1960. The management stated, that, in view of the terms of the order of reference, Issue No. 3, the Bank wished to produce evidence other than that adduced before the Enquiry Officer, and sought permission for the same. It was further mentioned, that the witnesses to be examined were all public servants on duty, whose evidence could not be recorded by the Enquiry Officer, as they were not available to him. The Union however opposed this petition, and contended, that it was beyond the competence and jurisdiction of the Tribunal to record fresh evidence, as was sought to be done by the Bank. By order dated 11th March 1960, the management were permitted to examine further witnesses and adduce further evidence. A number of witnesses were, thereafter examined, and these are MWS. 1 to 6. It may be mentioned, that the witnesses examined, not only included the official witnesses, consisting of a Deputy Superintendent of Police, an Inspector and an Assistant Sub-Inspector, and a Magistrate, but also Shri Roy Chowdhry, and Shri T. B. Sarwal, the Enquiry Officer. Shri Roy Chaudhary was one of the witnesses examined by the Bank at the domestic Enquiry in support of the charges against the workmen. After the examination of these witnesses the workmen wanted to examine witnesses on their behalf. The Bank thereupon filed I.A. No. 52 of 1960, opposing the request of the Union, to permit evidence to be adduced on their behalf. It was mentioned in I.A. No. 52 of 1960, filed on behalf of the Bank, that the employees wanted to adduce and produce such evidence, which they did not produce before the Enquiry Officer, that the proceedings before the Tribunal were not supplemental to, nor continuance of the enquiry before the Enquiry Officer, and, therefore, the employees' request for examining fresh witnesses on their behalf should be refused. The workmen thereupon filed a counter to this application, and it was contended that the stand taken by the Bank was contradictory, that the Bank itself had led additional evidence, and that it was not open to the Bank to prevent evidence on behalf of the workmen, being recorded by way of rebuttal. An order was passed on 8th April 1960 in I.A. No. 52 of 1960, permitting the workmen to examine witnesses on their behalf, and it was held therein, that a number of witnesses had been examined on behalf of the Bank, including Shri Roy Chowdhry, who had been examined on behalf of the Bank as one of the persons, proving the charges against the workmen, that Shri Sarwal also had been examined, and it was only fair and reasonable to hold, that, when the management had adduced fresh evidence in support of their contention, the workmen also should be permitted to adduce evidence in support of their contention, and that one standard could not be applied to the management, and another to the workmen. The workmen thereupon examined a number of witnesses on their behalf. It will thus be seen, that in this case, we have a lot of evidence on either side adduced in this proceeding, before the Tribunal.

41. In this connection I may refer to the observations of the Supreme Court in *Doom Dooma Tea Co. Ltd. case*, referred to above, at page 60, which are as follows:—

"Besides, it is obvious, that the Tribunal over-looked the fact, that it was not within its competence to re-appreciate the evidence in the present enquiry, and that introduces a serious infirmity in the award."

On the basis of these observations, it is contended for the Bank, that it is not open to this Tribunal to deal with the evidence and re-appreciate it. This contention is not of any value. Considerable evidence has been led on behalf of the management in this enquiry. Shri Roy Chowdhry has been examined and he is one of the Bank's officers. Shri Roy Chowdhry was examined as a witness for the Bank to prove the charges against the workmen in the enquiry proceedings. He has been recalled and examined. Likewise Shri Sarwal has been examined in this enquiry. He has deposed that he had personal knowledge of the allegations in the charge sheet. Moreover a number of police officers and the Magistrate have also been examined. All this evidence has been put-forward with a view

to prove the incidents alleged to have taken place in March and April, 1959. Police officers were not examined once, but a second time, and were recalled at the request of the management, and examined once again. It is not possible to shut out all this evidence in this case. We are not concerned with the motives which impelled the management to call all this evidence. On the contrary the mention of Item No. (3) of the reference, in I.A. No. 41 of 1960 cannot be overlooked. There is no question of re-appreciation of the evidence led before the Enquiry Officer. The Enquiry Officer recorded the evidence of the Bank's witnesses, mostly in the absence of the alleged delinquents. Shri Roy Chowdhry was cross-examined in part on behalf of Shri Khanna and Shri Rajinder Lal Syal. There was no cross-examination of any of the other witnesses. The evidence, that has been led in this Court, cannot be ignored. In deciding on the truth of the alleged charges and the validity of the action taken by the management, we cannot lose sight of the evidence, that has been adduced now in this Court. It is not permissible to deal with the evidence piece-meal, and confine the enquiry, only to the evidence adduced on behalf of the management during the time of the domestic enquiry. When the management have led evidence on their behalf, it was only natural that the workmen should lead evidence in support of their contention. Therefore, the entire evidence has to be viewed as a whole. The lawfulness or wrongfulness of the dismissal has to be judged and decided on the basis of the evidence adduced by either side in this proceeding. In such circumstances, it is not a question of mere re-appreciation of evidence, which is condemned in the decision cited above.

42. Moreover it will be seen, that Item No. 3 of the reference raises the question, whether the dismissal was in accordance with law, and whether such dismissal was valid and justified. This throws the burden of proof on the Bank. In this connection attention has been drawn on behalf of the workmen to a decision in State Bank of India Staff Association (1957 I LLJ 97). Therein is extracted a statement in "Management Functions under Collective Bargaining" by Ludwig Teller, at page 75, which is as follows:—

"The Burden of proof is on the employer to show, that the discharge, or other disciplinary action was justified."

The workmen have pointed out, that an appeal against this decision 'was dismissed by the Supreme Court, as reported in the State Bank of India Vs. Their workmen (1960 II LLJ 85). There can be no doubt at all that in spite of all protest to the contrary, as stated in I.A. No. 52 of 1960, the Bank wanted to examine further witnesses in view of this Item of reference, and in order to cure any defects, that might have occurred in the course of the domestic enquiry. The management examined witnesses in this proceeding to prove the charges against the workmen.

43. That the management are entitled to lead fresh evidence before the Tribunal, if there was no enquiry, or to cure defects in an enquiry, is laid down in the decision of the Supreme Court in Phulbari Tea Estate (1959 II LLJ 663), Sasamosa Sugar Works (1959 II LLJ 383), and the Punjab National Bank Limited (1959 II LLJ 66) (at 682) and Doomdooma Tea Estate (1960 II LLJ 56). It is expressly laid down in the decisions above, that, if no enquiry had been held by the management then they would be entitled to lead evidence before the Tribunal, and in such a case the whole matter will be open before the Tribunal for decision. In my opinion, the same reasoning and principles apply even in a case, where the management, with a view to cover the defects in the enquiry or to supplement the domestic enquiry, adduce fresh and additional evidence before the Tribunal, and rely upon it for the purpose of supporting their contention, and action. When the Bank adduced fresh and additional evidence in this proceeding, and when a number of witnesses were examined on their behalf, in connection with Item No. III of the reference, and when equally on the other side evidence was led on behalf of the workmen in disproof of the charges, the whole matter is before the Tribunal, and the question raised will have to be decided in the light of the evidence including that adduced in this proceeding. The matter does not rest merely on the enquiry conducted before the Enquiry Officer, and the evidence produced before him. The whole matter is now open, and it is for this Tribunal to deal with the questions raised, in the light of the evidence, that has been adduced before this Tribunal, and come to a conclusion about the guilt or otherwise of the several employees in respect of the charges against them. In other words, to use the language of the Supreme Court, in Punjab National Bank Case (1959 II LLJ 666) at 682 the merits of the impugned order of dismissal is at large before the Tribunal, and on the evidence adduced before it, the Tribunal has to decide for itself, whether the alleged misconduct is proved. Therefore a decision will

have to be arrived at, in respect of Item No. 3 of the reference in the light of the evidence in the case, by this Tribunal.

44. The question, therefore, for determination is, whether, on the evidence the charges against the workmen have been proved. In the first place, I shall deal with the evidence of Shri Roy Chowdhry, and Shri T. B. Sarwal. A reference to Exts. M/1 to 6 will reveal, that Shri Roy Chowdhry was the first witness examined in support of the charges against the workmen. He has been called as a witness again in this enquiry. Obviously, Shri Roy Chowdhry was relied upon as a person, having personal knowledge of the events, that are alleged to have taken place on the dates referred to in the charge-sheets. He is the Labour Adviser of the National and Grindlays Bank Limited, stationed at Calcutta. Formerly his designation was Labour Relation Officer, but it was changed when he was in Delhi. According to him, the Accountant at Calcutta, sent him a ticket on the 29th, with directions to leave for Delhi. He came here on 30th March, 1959, by plane. He deposes, that, it is very difficult for him to recollect at this distance of time, whether the six workmen in the order of reference made a speech, or who among them made a speech. He cannot remember exactly, who were the persons, who created disturbances. He only knows the names of the employees but he does not know them. He cannot remember, who delivered the speech, and who did not. When he appeared before the Enquiry Officer, he spoke to certain dates, and names. He had a note with him then, i.e. rough-notes. He had some rough-notes which he had noted, but he did not have any dates, or details of the incidents, or names of employees in those rough notes. (In this connection Shri Syal WW8, has stated that MW4 Shri Roy Chowdhry, had a paper in his hand when he gave evidence and that this was not produced). He cannot remember, if Shri Khanna delivered a speech on the 7th, 8th or 9th April. It is difficult for him to remember at this point of time. This witness says, that the Manager, Mr. Brown, addressed the clerks in English inside the hall once or twice. Shri Roy Chowdhry deposes that the Enquiry Officer did not call him a fool, and that the Enquiry Officer did not ask him to shut up. (This is asserted by Shri Chakrawarti in Ext. W/160). It is important to note, that Shri Roy Chowdhry apparently gave evidence before the Enquiry Officer, and also here about the events, alleged in the Charge-Sheets, because he had personal knowledge about the same. But when this evidence is tested by cross-examination, there are admissions, which are sufficient to show, that his evidence is unsatisfactory and vague and that he has in fact little knowledge about the charges.

45. Next, we have the evidence of Shri Sarwal MW6, who deposes, in cross-examination, that the charge sheets were based upon his personal knowledge of the allegations. This means, that all the incidents referred to in the charge-sheets, were within the personal knowledge of this witness. He signed the charge-sheets, and he was the authority to inflict punishment. In cross-examination he says, that he cannot remember the exact time of demonstrations, on the several dates in the charge sheets. He cannot remember the specific hour during which the demonstrations took place. Generally the demonstrations were in the morning, and during the day. He did not keep any note, or diary about the incidents. He relied upon his memory in regard to them and put them in the charge-sheets. He saw people making speeches. He could not say definitely, whether Shri Malhotra and Shri Kapoor were making speeches. He cannot say definitely whether Sarvashri Khanna and Syal were making speeches. He further adds, that during the period 30th March to 11th June, the workmen's conduct was "rough". Tested by cross-examination, this witness's remembrance also fails him, when he is asked about the incidents noted in the charge-sheets as against the six workmen. Moreover comment has been made on behalf of the workmen, on the evidence of Shri Sarwal, that he does not remember, what his salary is. It is argued, that he has got a very convenient memory, and in any case when he cannot even remember his salary, no reliance can be placed on his evidence as proving the charges. In my opinion, the value to be attached to the evidence of Shri Roy Chowdhry and Shri T. B. Sarwal, who posed to be eye witnesses, to the occurrence and to have personal knowledge about the incidents with which the workmen have been charged, is nil.

46. The Bank have drawn attention to the fact and that Mr. Todd and Shri Biswas, two officers of the Bank, were examined before the Enquiry Officer and that there is this evidence also to be taken into account. These persons have not been called here have not been tendered for cross-examination. Their evidence is also open to the objection of having been improved upon by being examined on several occasions to speak to the same set of facts, and I shall deal with this objection more fully later. No weight can be attached to the above evidence.

47. Nextly, I shall refer to the official witnesses, who have been examined on behalf of the management. MW1 is Shri Mukatdhari Singh, who is the Deputy Superintendent of Police, Kotwali. His evidence is that a number of policemen were present on the dates now in question from the 30th onwards. He went to the Bank in the month of March, or April, but he cannot remember. There were lectures by the Bank employees, and there were meetings by them. This was during bank hours, i.e. between 11 A.M. and 4 P.M. There were so many Bank employees present there, shouting slogans. He recognised Sarvashri Rajinder Syal, Devi Pershad, and Shri Kishan among the employees. The slogans were "cancel" remarks "Brown Sahib rule cannot go on". He however states, that he cannot remember the dates, except to say, that it was in the month of March, or April. The slogans were shouted from Haveli Haider Qooli, when they were shouted from outside the Bank. The witness explains, that Section 144 of the Criminal Procedure Code was in operation in Chandni Chowk locality. The Bank is situated on the road side in Chandni Chowk. It is in evidence, that the rear entrance of the Bank is in Haveli Haider Qooli. MW1 adds, that there is space outside the counter in the Bank. The men were assembled there. It is important to note, that this witness has no idea at all about the dates on which the alleged incidents are said to have taken-place.

48. After the evidence of the witnesses examined on behalf of the workmen was over on 14th April 1960, the management again put in a petition for permission to re-call the police witnesses. Again, Shri Mukatdhari Singh was examined on 12th May 1960, about the incidents alleged to have taken-place, in the Bank. Then he stated, that the meetings took-place inside the hall during working hours. This was in April, 1959. The attitude and behaviour of the workmen was such, that the work of the Bank could not go on smoothly. The workmen were asking the persons, who were working, not to work, and were trying to persuade them, and sometimes physically obstructing them to do work. They were preventing other employees from entering the premises from the front, and rear. The witness next states, that the striking employees were shouting slogans against the police. In cross-examination this witness admits, that no written complaint was given to him by Mr. Brown, but it was sent to the Lahori Gate Police Station. He does not remember, if the names of any employees were mentioned therein. He went through the reports. Exts. M/528 and 529 have been produced as the complaints given, but these are dated 26th June 1959. He is definite, that he could move freely inside the Bank. He next speaks about his visit, when there was a strike. I am not prepared to attach any weight to the evidence of this witness, as proving the charges against workmen, on the several dates noted in the charge-sheets. He gave vague evidence about the same in his deposition when he was first called. He has tried to improve upon his evidence when called on the Second Occasion. It must be remembered that there was a strike on 16th April 1959 and from 23rd June 1959 continuously till 20th July 1959. Evidence about events that took-place at the time of strike cannot be imported into the proceedings against the workmen in respect of the alleged charges which related to a period prior to 16th April 1959. I am unable to place any reliance on the evidence of this witness, in proof of the charges against the workmen.

49. MW2, Shri Bhim Singh, who is Station House Officer, Lahori Gate, admits even in Chief Examination, that he does not know anything about what happened in March or April, 1959 in the National and Grindlays Bank. Then he speaks to certain reports from 1st April 1959 to 10th April 1959. These are merely to the effect, that such and such police officer went to the Bank for duty, and they do not contain anything else. This witness also was recalled, and examined on 4th May 1960, after the workmen had closed their evidence. The evidence however is not sufficient to prove the charges against the workmen. This witness speaks to the reports, Exts. M/528 and 529, but these are only about events in June, 1959.

50. Then we have the evidence of Shri Dalip Singh MW3, who is in the Lahori Gate Police Station for the last 1½ months. He visited the Bank in April, 1959. There was a strike there, and he was deputed for duty. He went to the Bank at about 8-45 A.M., and was there till the close of the Bank. He used to do duty like this during April to June. He next adds that, if he looks into the record, he can say, if he attended in the beginning of April. His duty was on the road side. Inside the Bank there were slogans shouted. Some employees were being asked not to work, or to do duty, by others. The slogans were "Re-instate the dismissed employees", "Go Back Brown". In cross-examination he says, that those, who used to go inside the Bank during the strike period, used to shout the slogans, he mentioned above. The strikers were moving here and



there. If they assembled at all, it was in the Gall in Haveli Haider Qooli. Shri Syal was the leader. He used to go inside at the time of strike, and come out. The witness says, that there was no infringement of law and order. This witness's evidence also does not prove the several incidents, alleged to have taken-place on the dates mentioned in the charge-sheets. This witness seems to mention the incidents that took-place at the time of strike. Apart from the above, he deposes, that he was reverted from the post of Assistant Sub Inspector to that of Head Constable, on a bribery charge. This witness's evidence also cannot be relied upon as proving the charges against the workmen.

51. The last witness is Shri H. L. Gugnani, who is a Magistrate I Class, and according to him, he had occasion to go to the National and Grindlays Bank. He is not sure about the dates. His visits there were in connection with the strike in the Bank. He may have gone there 4 or 5 times. There was a strike on 16th April for about two hours, and an all out strike from 23rd June to 20th July. His further, evidence is, that some demonstrations were being held. An enquiry was being conducted by Shri Sarwal. The demonstrators were then inside the hall, outside the counter. He wanted to go to the Enquiry Officer's room, but the demonstrators did not make way for him to go to the Enquiry Officer. He tried to send a police officer to the Enquiry Officer, with his message, but he too was not permitted to go to the Enquiry Officer. He did not take any action at the time, as he considered, that the employees were highly excited. If, according to this witness, he went at a time, when Shri Sarwal was holding an enquiry, this was only on 16th April 1959, on which date the Enquiry Officer started the enquiry. Nextly, the witness states, that once or twice later, when he went to the Bank, there was a partial strike. On another occasion he went and he saw one of the demonstrators making a speech in the hall, standing on a chair. He advised the employees, that, if they wanted to hold demonstrations, they could have them outside, and that otherwise they would render themselves liable to prosecution. After some arguments, the demonstrators accepted his advice, and the demonstration stopped. Shri Syal was one of the employees, and he only remembers Shri Syal's face. He does not remember, what slogans were being shouted. The above evidence of the Magistrate in chief examination will show, that he speaks to certain events, which took-place on or after 16th April 1959. The Magistrate has deposed, that he has no idea of the month, when the above incident took-place. He went there 5 or 6 times. When he went, the strike was going on. The strike continued for sometime. The above evidence also does not prove the charges against the employees. The further evidence of Shri Gugnani is, that, when he told the employees, that they might lay themselves open to the charge of tress-pass, they accepted his advice, and dispersed. He cannot remember, who said so to the employees, but it may have been Shri Syal, or Shri Chakrawarti.

52. Thus an examination of the evidence, that has been adduced on behalf of the management, does not at all afford satisfactory and sufficient proof of the charges against the workmen, as mentioned in the charge-sheets, and of the various incidents, that are said to have taken-place from the 30th March to the 11th April. The charges are not proved by the managements' evidence.

53. On the other side, we have the evidence of a number of witnesses on behalf of the workmen, in dis-proof of the charges. Shri Rajinder Lal Syal, WW8, has deposed, that he was the General Secretary of the Union from 1951, and in one year he was the President of the Union. He was taking up the case of the employees, against whom disciplinary action was being taken. On 28th March 1959 he took up the case of adverse remarks against the employees. He met the Manager, Mr. Brown, as leader of the Executive Committee Deputation. The Manager lost his temper, and abused them. He again met the Manager, and requested for a reply. Shri Brown said, "get out. I am not prepared to give any reply". The Manager refused to discuss the grievances of the employees. On 31st March 1959 the doors of the Bank were locked from 2 P.M. to 5-30 P.M. The employees were not allowed to leave after 5 P.M. The police officials there said, that the keys were with the Manager. He met the Manager at about 5 P.M., but he said, that the Union must withdraw the complaint about adverse remarks. The Executive Committee Deputation waited on the Manager on 1st April 1959. Shri Sarwal was present then. He was the Accountant of the Branch. The deputationalists requested, that the adverse remarks should be withdrawn, and that the agreement of 1954 should be honoured. The Manager said "Idiots, fools, bloody, get out", and he told Shri Chakrawarti "you will see what is in store for you." Shri Sarwal told off the deputationalists in the same way, using the same words, as the Manager. "Idiots, fools, bloody, get out." The members of the Executive Committee were threatened with dire consequences. They told the Manager, that he was unfair, and that they would prefer a complaint to the

Head Office, against the Accountant and the Manager, demanding an enquiry. The further evidence of WW8 is, that there was no disorderly behaviour at all on the several dates mentioned in the charge-sheets, as alleged therein. The employees never left their seats in the months of March, April, and May, except on 6th & 9th April, 1959. On 6th and 9th April the Manager addressed the employees in the Banking Hall, and the employees were asked to be present. The English speech of the Manager was translated by Shri Khanna on the 6th and by Shri Syal, on the 9th. Except the translation of the speech on the 6th and 9th April, there were no speeches of any kind inside the premises of the Bank by any one. Shri Syal denies the suggestion, that the Manager and Shri Sarwal did not use any of the objectionable words referred to above. There was no demonstration of outsiders on 31st March 1959. From 1st April 1959 in the morning, there used to be demonstrations from 9-30 A.M. to 10 A.M., in Haveli Haider Qooli. This continued daily for some days. On certain days in the evening also, outside the Bank premises, and after banking hours, there were demonstrations in Haveli Haider Qooli. After 5-30 P.M., the Subordinate Staff used to join the demonstrations. In the mornings the clerks used to hold the demonstrations. There were meetings inside the Bank premises, but after office hours. Then there used to be speeches, and also slogans. Thus, according to the evidence on behalf of the workmen, there was no kind of demonstration of any kind inside the Bank premises, or during working hours, and there was no kind of disruption of the work of the Bank at any time. There was no instigation of any person, as alleged in the charge-sheets. There were no speeches except on the 6th and 9th, when the English speeches made by Mr. Brown were translated by Sarvashri Khanna and Syal. There were demonstrations only outside the Bank premises in Haveli Haider Qooli, and after banking hours, and after the work of the Bank had closed for the day. It is explained, that Haveli Haider Qooli is a gali, or a lane behind the Bank, containing the rear entrance to the Bank premises. The Magistrate and the police were present on 16th April 1959, but nobody prevented the Magistrate from going to the Enquiry Officer's Room.

54. Then we have the evidence of WW9 Shri L. R. Malhotra, who, at the time of dismissal was a member of the Executive Committee. He was Assistant Secretary in 1957-58. He also deposes, that he never left his seat during working hours, that no speeches were delivered, and no demonstrations were held during working hours, as mentioned in the charge-sheets. There was partial strike on 16th April 1959, and a continuous strike from 23rd June to 20th July 1959. WW10 is Shri Inder Narain Kapoor, who has given similar evidence. He and other employees never held any demonstrations during office hours inside the Bank on the dates mentioned in the charge-sheets.

55. Next WW11 is Shri Prem Kishan Khanna, who was a member of the Executive Committee at the time of dismissal. Prior thereto he was the General Secretary in 1957-58. Two years prior thereto he was the Secretary. He also deposes, that the charges mentioned are all false, that he did not leave his seat at any time, as alleged, that there was no demonstration in the Bank premises and that there was no instigation of other employees in any manner. He did not deliver any speeches during the working hours on the premises of the Bank. He translated the speech made by Mr. Brown on the 6th, as he addressed the employees in English. Shri Syal translated the English speech on the 9th. On 6th April 1959, Shri Brown said, that he was not prepared to abide by the agreement of 1954, and that he was not willing to withdraw the adverse remarks. He spoke for about 5 or 6 minutes, and the above was the gist of his speech. The further evidence of Shri Khanna is, that demonstrations used to be staged in the morning between 9-30 and 10 in Haveli Haider Qooli, and no Peons attended then. In the evening demonstrations used to be after the close of business for the day, and the Peons used to attend. The witness denies the suggestion in cross-examination on behalf of the management that there were demonstrations in the Bank between 10 A.M. and 5 P.M. He deposes, that it is false to say, that during working hours between 10 and 5 at different intervals they held demonstrations, made speeches, and shouted slogans.

56. Shri Devi Pershad is WW12. He was an Executive Committee member of the Union at the time of dismissal. He had been the President, Vice-President and Treasurer previously. The adverse remarks made against him, Ext. W/355, were handed-over to him on 28th March 1959. He also says, that the charges in the charge-sheet against him Ext. W/196 are all fabricated, and false, that he never left his seat during working hours that he never shouted any slogans during working hours, that there was no demonstration during working hours, that none of the workmen made any speeches during working hours, and

that Sarvashri Syal, Khanna, and Chakrawarti never made any speeches during working hours. He also never made any speeches during working hours. He never instigated any employees to behave in a dis-orderly manner, inside the Bank premises in any manner whatsoever. The demonstrations started for the first time on 1st April 1959 and these used to be in the gali, Haveli Haider Qooli. These were before 10 A.M., and after 5 P.M. Now and then during the lunch intervals demonstrations were held in the gali. No demonstration ever took place inside the Bank at any time from 10 A.M. to 5-30 P.M. The banking hours actually started from 9-30 A.M. There were no demonstrations at all from 9-30 A.M. to 5-30 P.M., inside the Bank on any day. There were no demonstrations during working hours, or after working hours, inside the Bank premises. The Union used to hold meetings after banking hours, but the Union had permission to hold such meetings. It may be, mentioned here that such permission was withdrawn by the Bank on 16th April 1959.

57. Shri P. L. Chakrawarti is WW14 and he was Assistant Secretary of the Union at the time of dismissal. Prior thereto he had hold many times the post of Secretary, Vice-President, and Member, Executive Committee. He also denies the truth and correctness of the charges contained in Ext. W/148, the charge-sheet. He says, that he never left his seat during office hours, and staged demonstrations. No employee staged demonstrations during office hours. He did not instigate any employee to indulge in dis-orderly behaviour during working hours, on the Bank premises. He never delivered any speeches on the Bank premises at any time or during working hours. Even at the time of strike, on 16th April 1959, the strikers were outside the couter and they never created any disturbances, or shouted slogans. This witness says, that he was on sick leave on 31st March 1959. It is false to say, that the employees held demonstration in the Bank premises during office hours, or that he instigated others to do so. He never translated Mr. Brown's speech on any day.

58. Thus we have the evidence of the workmen concerned, categorically denying the all-gations made in the charge-sheets. They have admitted, that in fact demonstrations were held, but only outside the Bank premises in the gali, Haveli Haider Qooli, and this was also only out of office hours, in the morning before 10 A.M. and in the evening after banking hours, and after the Banks business had closed. The evidence of the Bank witnesses before the Enquiry Officer is, that when they left at 5 P.M. the workmen jeered at them. Thus the Officers left at 5 P.M. and the work closed for the day at 5 P.M. Thereafter if there were demonstrations, they took-place only after the close of business. There was no dis-orderly behaviour, by demonstrations, or speeches of any kind, or leaving of seats, or shouting of slogans during the banking hours, and in the Bank premises, and there was no kind of instigation at any time or incitement of any workers, as alleged in the charge-sheets.

59. It has been argued by Major Brar for the Bank, that the evidence of the workmen is interested and un-reliable and that they are swearing by the Cord. It has equally vehemently been argued, that the Bank's evidence is also interested and unreliable, and it consists of only of the highly paid Officers, out to get rid of troublesome union men, by some means or other, and that if the workmen are trying to save their necks, the Bank's Officers have the motive not to jeopardise their well paid jobs. Not a single workman has been examined on behalf of the Bank. I am impressed with the truth of the evidence of the workmen, who gave their evidence in a straight forward manner, and I am not prepaed to say the same about the evidence of the Bank's witnesses.

60. Again the truth of the evidence of the workmen is rendered probable by the evidence of a number of other witnesses, who have been examined on their behalf. WW1 is Shri K. T. K. Thangamani, who is an Advocate of the Madras High Court, and a Member of Parliament. According to his evidence, he came to know of the dispute in the National & Grindlays Bank from what he was told by some of the employees. He went to the Bank premises on a Monday, in the first week of April, with Shri Prabhat Kar, another Member of Parliament, at about 9-30 A.M. There is a lane behind the Bank, and adjoining it. There were about 100 employees assembled there, and they were shouting slogans as follows:—

"Implement the bipartite agreement. We may get justice from the Head Office."

At this time there were a number of policemen present. About 10 days later, Shri Kar told him, that some action had been taken by the Bank. He and Shri Kar again went to the Bank in the 3rd week of April, 1959. This was about

12-30 P.M. Near the counter a number of persons had assembled. There were a number of policemen present. When one of the police officers recognised the witness, the police were asked to disperse. On the second occasion, when he went to the Bank, the employees were outside the counter in the Banking Hall. The witness explains, that there is open space in front of the Banking Hall. Outsiders stood there. It was in this place, that the employees were assembled, when he went on the second occasion. This was on 16th April 1959. The employees were not guilty of any disorderly behaviour at any time, when he went to the Bank, on either occasion. On the second occasion, when he went on 16th April, he was told by some of the employees that some enquiry was going on. He did not try to contact the management. His main purpose was to see, whether the demonstration was peaceful, and whether policemen were assembled there.

61. Next, we have the testimony of Mrs. Sarla Sharma, who is a Councillor of the Municipal Corporation. According to her evidence, on the 1st of April, at about 9 A.M. a woman came to her, and said, that she could not enter her house as the police were in the street. The house was in the street, Haveli Haider Qooli. Her office is in Haveli Haider Qooli. She thought it might be a joke, as it was the 1st of April, but she was assured, that it was not. Then she went to the spot, and found the police there in force, about 100 or 150 policemen. There were armed police also. They said, that the Bank had called for them as there was a dispute between the Bank and its employees. She told the policeman, that she must allow her constituents to pass through the street to go to their houses. At 9-30 A.M. she heard slogans being shouted. She came out of her office, and saw some Bank employees shouting slogans peacefully near the entrance to the Bank. She stood for 2 or 3 minutes, and watched them. She went on hearing the slogans for about half an hour. She heard the sound of slogans for about half an hour. She heard the sound of slogans being shouted every day, for half an hour between 9-30 and 10 A.M. for about a week. The slogans were, "we shall not tolerate insults at the hands of an Englishman." "We shall not tolerate police excesses" "Withdraw the police" "We demand justice." The last slogan was oft repeated. The demonstrators were inside the Haveli Haider Qooli, behind the back door of the Bank. Her office is situated one house ahead of the Bank building. In cross-examination she deposes, that she used to pass that way in Haveli Haider Qooli many times during the day. She distinctly heard the slogans, and as they were shouted so often, she remembers them quite well. These slogans were shouted by the employees, who were assembled at the back door entrance of the Bank. Sometimes she heard the slogans at about 2-30 P.M. at the same place in Haveli Haider Qooli. The number of employees assembled varied from 20 to 50, but she cannot be sure, whether all those were bank employees. Outsiders also used to stand there with the bank employees. One day she heard slogans being shouted by about 10 people at about 1-30 or 2 P.M., at the time of lunch interval. The witness explains, that she is a councillor for Haveli Haider Qooli area.

62. Next, the evidence of Shri S. M. Banerjee an M.P., is that he went to the Bank in April, 1959, about 2nd or 3rd. The police constables told him there were no disturbances. On the second occasion i.e. 15th or 16th, he saw that mostly the workmen were not working. There was no disturbance of any kind.

63. Shri Pershadi Lal is a Tailor-Master, who lives in Haveli Haider Qooli. His evidence is, that in the first week of April, the employees used to stage demonstrations inside Haveli Haider Qooli, prior to 10 A.M., and after 5 P.M., in the evening. They shouted slogans as follows:—

"We won't tolerate police excesses". "We want justice". "We won't tolerate abuse from Englishman." There was a strike later in June and July, 1959. This witness is definite, that there was no demonstration inside the Bank, or in the Banking Hall. The demonstrations were outside the Bank premises in Haveli Haider Qooli. One day the employees were standing outside the counter, and some Englishman was talking to them in English. The witness was told, that he was the Manager. The employees were peaceful, and were not shouting slogans. He saw this on 2 or 3 occasions, when he went inside the Bank premises. In cross-examination, he deposes, that he has no account with the Bank. The police were going in and coming out of the Bank in April and May. The police were at the Bank from April to July.

64. Shri Manohar Lal, WW6, is a Tea-Stall proprietor. His shop is in Haveli Halder Qooli, just near the entrance to the street. He takes tea inside the Bank for supply to the employees. He serves tea to them even during working hours. He has been supplying tea like this for the last 4 or 5 years to the Bank employees. He supplied tea like this to other Bank employees, viz. of Mercantile Bank and United Commercial Bank. The employees of the National and Grindlays Bank used to demonstrate in Haveli Halder Qooli, not inside the Bank, or in Chandni Chowk. This was in April, 1959. There were demonstrations in Haveli Halder Qooli upto 10 A.M., and after 5 P.M. The demonstrations consisted in shouting slogans. The employees used to hold meetings inside the Bank premises only after 5-30 P.M., after banking hours. He knows about all this because he used to supply tea to them. He used to go daily into the Bank at almost all hours during working hours. There was no kind of demonstration inside the Bank premises by the employees at any time during the dispute. On 31st March, 1959, he was not allowed to go inside as the doors were closed. The policemen also used to take tea from him. The slogans, that were being shouted, were "we do not want police excesses. We want justice." In cross-examination, he deposes, that in March, April, or May he did not see any employee inside the Bank not doing any work, except that on one day he saw some employees sitting outside the counter for two hours in the April month.

65. Shri P. L. Syal is the General Secretary of the Punjab National Bank Employees' Union, and he has deposed to the fact, that the demonstrations by the employees of the National and Grindlays Bank used to take place in Haveli Halder Qooli, behind the back door of the Bank, but outside banking hours, i.e. in the morning between 9-30 and 10, and in the evening after 5-30. The employees used to hold meetings inside the premises of the Bank after the close of the Bank for the Day. The employees had permission to hold such meetings after banking hours, and this permission was later withdrawn.

66. In my opinion, the evidence on behalf of the workmen is sufficient and satisfactory to establish conclusively, that there were no demonstrations of any kind, or disorderly behaviour, or any shouting of slogans, or making of speeches, or instigation or insubordination of any kind, as alleged in the charge-sheets, on the days mentioned therein, and during banking hours. The employees' evidence is amply corroborated by the evidence of other witnesses. The only criticism, that is levelled against Shri Thangamani and Shrimati Sarla Sharma is, that they are members of the Communist Party. From this fact, it cannot be concluded, that what they are saying is not true. There are no satisfactory grounds for disbelieving their evidence, or of Shri Banerjee, or that of the tailor-master and the Tea-Stall vendor merely because the two latter are occupying humbler stations in life. It is however, argued, that the evidence of the various witnesses examined on behalf of the workmen is interested and unreliable, and that no credence can be given to the same. I am not able to understand how the evidence of WWS. 1, 2, 5, 6 and 13 can be regarded as interested, or unreliable. If this test is to be accepted, we have only the evidence of the Bank's Officers, on the other side. Their evidence in addition to being interested, is not satisfactory to prove the allegations against the workmen. So far as the evidence of the official witnesses is concerned, that also is insufficient to prove the misconduct and the charges against the workmen.

67. Thus a consideration of the evidence establishes, that the charges against the workmen are not true at all. On the contrary, such demonstrations as did take place from 1st of April onwards, were in the Haveli Halder Qooli, only behind the rear entrance of the Bank, and out of office hours. There was no kind of disorderly behaviour inside the Bank premises, or during banking hours at any time. If at all meetings were held inside the Bank premises, such meetings assembled only after the banking hours, but this was in pursuance of the permission granted to hold such meetings. It is admitted, that this permission was withdrawn only on 16th April, 1959, by Ext. W/381.

68. Even as a question of probability, I am not able to believe the case of the management. It is important to note, that it is admitted, that the police were present in force, on the material dates. The witnesses on behalf of the workmen have all deposed to the presence of the police in large numbers, including armed police, reserve police, and C.I. men in plain clothes. That police were posted is also clear from the evidence of MWS. 1, 2, and 3. The evidence of Shri Sarwal is, that the strength of the police force varied from day to day, that there were 3 or 4 constables inside, that outside there were more police, and that they were present from 31st March to July, 1959. There might have been police on the side of the Haveli Halder Qooli. He does not know, if they were posted there. There is

ample evidence to show, that there were policemen also in Haveli Haider Qooli. The workmen have produced the photographs Exts. W/546 and 547. It is clearly established, that policemen were present in Chandni Chowk, Haveli Haider Qooli, and also inside the Bank. There were visits of the Deputy Superintendent of Police and Assistant Sub-Inspector, and also the Magistrate. It is improbable, that the workmen would have behaved in the manner they did as charged in the charge-sheets, while the policemen were present in such large numbers. Not a single employee was arrested. The Magistrate says, that he advised the employees, that what they were doing amounted to trespass and on this they dispersed. In face of the presence of police officials in force, it is hardly probable, that the workmen behaved in a disorderly manner and held demonstrations, shouted slogans, made speeches, and disrupted the work of the Bank, and instigated and incited others not to do work.

69. In this connection it may be noticed, that in respect of the first charge, there is an accusation, that, owing to the disorderly behaviour of the workmen, the work of the Bank was completely disrupted. With reference thereto, Shri Sarwal has stated, that the arrears of work in March, April, May, and June were finally cleared in July and August. Next he states, that the arrears were partly cleared in June, July and August. The contention on behalf of the workmen is, that in fact the work of the Bank was not disrupted in any manner, at all. On the contrary, Shri Rajinder Syal, WW8, has deposed, with reference to Ext. M/327, the Day Book, that therein only the vouchers, that have been posted in the ledger, are entered. The ledger, on which he worked, has not been produced. Different persons, other than those, who posted the ledgers, can post entries in the Day Book. He deposes, that he has written all the entries on 30th March, except three which are written by others in Ext. W/556. In Ext. W/557 he wrote all the entries on 31st March, 1959. On 1st April, 1959, only 13 are written by some one else, as in Ext. W/558. In Ext. W/559 on 2nd April, 1959, only 5 are in the writing of some one else. He next states that in Ext. W/560, 90 per cent. of the entries are in his hand. His case is, that he was doing his work as usual, and that the entries from 3rd April, to 11th April, are mostly in his writing. There was no charge-sheet against him that his work was in arrears, or that it was incomplete. It is also pointed out on behalf of the workmen, that no constituent of the Bank has been examined to prove, that the work was disrupted in the manner alleged. On the other hand, reference has been made to the remarks of the constituents on the back of Ext. W/397. The argument on behalf of the management, that the truth of the charges is established by reason of the complete disruption of the work of the Bank on the dates mentioned above cannot be accepted.

70. However, attention is drawn to Exts. W/382 dated 30th April, 1959. It is admitted therein, that the members of the Union were carrying on agitation against the Manager's unjustified and illegal action in entering adverse remarks. The employees have admitted the same, but, according to them, the agitation took place only in the form of shouting of unobjectionable slogans in Haveli Haider Qooli, and outside banking hours.

71. Considering the entire evidence, and the material on record, I am of opinion, that the charges, as contained in the charge-sheets against the several workmen are untrue, and that the evidence on behalf of the workmen represents the truth, and that no incidents, as mentioned in the charge-sheets, took place. My finding is that the six workmen are not guilty of the charges against them as noted in the several charge-sheets.

72. This finding, is sufficient to justify the conclusion, that the dismissal of the six workmen is wrongful, and that it is unjustified, and that they are entitled to relief.

73. However, apart from the above, I shall take the second contention on behalf of the workmen. Their contention is, that this case satisfies and fulfils every one of the conditions laid down in the Indian Iron and Steel case, referred to above even taking the managerial Enquiry as it stands.

74. At the outset it is argued, by the management, that they held an enquiry, that the workmen did not participate in the same, and that they are themselves to blame. Reliance is placed on the observations in Laxmi Devi Sugar Mills. Ram Sarup (1957 I LLJ 17). But the contention on behalf of the workman is that there was no just, fair and impartial enquiry, and that the principle of this decision cannot apply. On behalf of the Bank, Shri Chowdhry and Shri Sarwal have attempted to prove, that there was a fair enquiry. On the other side all the workmen have sworn with one voice that there was no fair and proper enquiry,

and that it was a farce and a mockery. In my opinion, the contention on behalf of the workmen is entitled to acceptance and there are a number of circumstances established in this case which justify this conclusion.

75. It is contended, that the action of the management is not in good faith and that, on the contrary, it is vitiated by positive malice and mala fides. In the forefront of his arguments Shri Parwana has contended, firstly that the very initiation of the disciplinary proceedings is illegal. I have referred to the making of adverse remarks in the service records of several of the employees. This was followed up by the framing of charges against the workmen. The contention on behalf of the workmen is, that the entering of adverse remarks and the communication of the same to the concerned workmen, without any enquiry, or an opportunity being given to them to be heard in their defence, is contrary to the agreement arrived at with the Bank in 1954, and that this is a deliberate act of unfair labour practice. The contention on behalf of the management is, that there is or was no agreement, as stated on behalf of the workmen in the matter of entering of adverse remarks. It is urged, that the reports entered against the employees were the unbiased appreciation of the all round work of the employees concerned, by their superiors, with regard to their efficiency, and had no relation to their extraneous activities outside the Bank, that the Union allegation is an after-thought, and that the adverse remarks did not amount to "punishment", and that, therefore, the procedure prescribed for disciplinary action for mis-conduct in the award was not necessary. What is contended is, that these were merely annual reports, that were made in the service files, and were not such as to require any enquiry.

76. In my opinion, the contention of the Bank is not at all well founded. At the outset there is no doubt at all, that there was an agreement between the Bank and the Union, that adverse remarks would not be entered without the employees being given an opportunity of being heard in their defence. I have referred to the letters Ext. W/426 and 427, in paragraph (27) above. In their letter, the employees set out the gist of the agreement, that had been reached with the management. The management replied, that they were "In accord" with the remarks made by the Union, and that the matter was receiving their attention. The Bank cannot be heard to say, that these letters do not constitute an agreement.

77. Nextly the Union has been at pains to establish, that the agreement, as entered into, with the management, and as set out in their letters, was implemented by the Bank in various ways. This is the meaning of the words, that the matter was receiving attention in Ext. M/427. The question of receiving attention arose because the Bank had to implement a number of matters agreed upon by them. These words cannot be interpreted to mean that there was no agreement about adverse remarks as contended for the Bank.

78. In the letter, Ext. W/426 dated 20th June, 1954, there is reference to the hutment of Shri Jaipal Singh. Ext. W/428 is a letter of the Union dated 5th July, 1954, regarding refund of rent. There is an endorsement thereon, that the house rent allowance had been refunded.

79. Nextly, in Ext. W/420, there is mention of subordinates' quarters and uniforms. Exts. W/429, 458, 432, 433, 459, 460 and 461 are the letters in this connection. Ext. W/460 is a letter of the Manager dated 4th July, 1958, sanctioning electric installation in staff quarters and it was stated, that existing water supply arrangements were adequate. In Ext. W/426 there is reference to the duties of Shri Chandgi Ram, and Exts. W/430, 431, are the letters in this connection.

80. With reference to Tiffin Room, the correspondence is contained in Exts. W/434 and 436.

81. With reference to working hours of Chowkidars, the letters are Exts. W/435, 437, 439, 440, 441, 442, 444, 445, 448, 450, 452, 453, 454, 455, 456 and 457.

82. With reference to library, Item No. 9, the letters in question are Ext. W/452 & W/458.

83. With reference to recreation facilities, we have Ext. W/449 and 452.

84. We have Exts. W/442, 443, and 452 regarding implementation of agreement.

85. From the documents referred to above, there can be little doubt, that the agreement was implemented in various ways. This leads to the inference that, it was perfectly understood, that Exts. W/426 and 427 did constitute an agreement.

No doubt, when it suited the Bank later to resile from the agreement, they did so, and the result was the entry of adverse remarks, contrary to the arrangement in Exts. W/426 and 427.

86. The further argument is raised, that there was no enforceable contract between the parties. I do not agree. It is permissible to spell out an agreement from correspondence between the parties. Exts. W/426 and 427 do establish an enforceable agreement between the parties in the matter of service remarks and especially so, when it had been acted upon in respect of various other matters, referred to therein. I find accordingly.

87. When there was an agreement, providing for entry of remarks, only after opportunity had been given to the employees concerned, to be heard in their defence, the management were guilty of unfair labour practice in flouting the agreement, and making adverse remarks against the workman in question without a hearing. The argument, that the management were entitled to do so, because they were mere annual reports made by superior officers, is without substance.

88. The next contention for the workman is that apart from the agreement, there is a provision in Paragraph 516 of the Sastry Award for the making of entries in service files, and that this Paragraph cannot be divorced from 521, 5B and 7B, where for major, or minor mis-conduct, making of adverse remarks is one of the forms of punishment. The contention on behalf of the Bank, that the remarks made in service files against the workmen in question were mere annual reports, and were not in the nature of adverse remarks, is of no force. Some of the remarks at any rate, have the effect of deliberately blasting the career of the workman. Especially Shri Srivastava, had been denied promotion in the past. His representation against his supersession had not been successful. The documents, Exts. W/468, to 478, are important in this connection. When already he had complained that he had been superseded, the further remarks, that he was an "unsatisfactory clerk", and that he was "lazy", and "unreliable" were not expected to do him any good. On the contrary, they did him immense harm. To be called unsatisfactory and unreliable was sufficient to mar his future career. The contention on behalf of the Bank, that these remarks were innocuous, and that they were in the nature of annual reports, and that they were not meant to stand in the way of the career of the employees, is unsound. The management were not prepared to withdraw them, when the Union requested them to do so. Most of the employees had put in long years of service, and these remarks were certainly not calculated to enable them to advance in their career. The workmen were justified in protesting against the entry of adverse remarks without a hearing, and taxing the management with breach of faith, and deliberate violation of the agreement of June 1954, without any valid reason.

89. The management have, however taken shelter behind the plea, that the said agreement even if true and enforceable, was not of any value after the publication of the Sastry Award. It can be by no means be contended, that terms favourable to the workmen were intended to go by the board. This condition about entry of adverse remarks only after a hearing, was a condition of service. It was in any case a concession and could not be altered except by the procedure prescribed under Section 9A of the Act. This agreement was not superseded by the award and did not cease to be in force, when the impugned adverse remarks were made. I find accordingly.

90. Even taking the Sastry Award, as it exists, and independently of the agreement of June, 1954, the making of entries by way of adverse remarks did amount to a "punishment" within the terms of Paragraph 521(5)(b), and (7)(b) of the Sastry Award, and such entries could not be made without enquiry into the conduct of the workmen, as laid down in the Award and justifying the making of such remarks.

91. It has been next argued that the Sastry Award ceased to be of force after 31st March, 1950, and especially when the workmen had given notice of termination. No doubt there are various matters referred to the National Tribunal in regard to the Banking Industry. But till a new award is published or there is legislative enactment, the Sastry Award continues to be in force till it is superseded, and it was in force at the material dates so far as this proceeding is concerned.

92. In the above circumstances the making of adverse remarks against the workmen, without a hearing, is illegal and unjustified and arbitrary, and is an act of unfair labour practice. The workman had the right to protest against the same.



93. Next we have evidence on behalf of the workmen, that Mr. Brown and Shri Sarwal abused them in objectionable language. That no management has the right to abuse its workmen, is well established in the Doom Dooma Tea Estate case referred to above. This has been set out in the evidence of Sarvashri Syal and Chakrawarti. In this connection, it was explained on behalf of the management, that Mr. Brown was in England on leave, and that it was not possible to get him to rebut the evidence led on behalf of the workmen. This is not a case in which we are concerned with the truth or otherwise of the abuse alleged to have been hurled against the workmen by Mr. Brown. This incident has been put forward, as justifying the workmen's complaint against the manager and also Shri Sarwal, and their application to the management in London, for an enquiry against them under Paragraph 517 of the Sastry Award. This is not an Enquiry against the Manager and Accountant under that Section. What is important to note is, that in fact the workmen complained, that they had been abused in objectionable language by Mr. Brown and Shri Sarwal. This was asserted at the very beginning, and repeated thereafter. They made this the basis of the complaint dated 4th April, 1959, demanding an enquiry under Paragraph 517 of the Sastry Award.

94. Again, there is the complaint that Mr. Brown ordered the locking in of the employees from 2 P.M. to 5-35 P.M. on 31st March 1959. This has been spoken to by the witnesses on behalf of the workmen. It is argued on behalf of the management, that it was anticipated, that there might be a demonstration by outsiders, and that, therefore, the management ordered the closing of the doors after 5 P.M. after most of the employees had left. The evidence on behalf of the workmen, is that the doors, both in the rear and front, were locked and nobody was allowed to leave, and there was virtual confinement of the employees between 2 and 5-30 P.M. It is complained, that some of them were not even allowed to go to their lunch. The Tea-Stall Vendor has said, that he was not allowed to go in even for serving of tea. If this incident was true, this also was not in good faith and showed hostility towards the workmen.

95. Again, certain incidents in the past have also been referred to on behalf of the workmen, as throwing light on the attitude of the management towards their employees, and their Union. It is the case of the Union, that in the past an officer named Mr. Harvey, used objectionable and derogatory language against Shri Rajinder Syal, and Shri Khanna, the then General-Secretary, and Secretary of the Union respectively, that the Union launched an agitation, and that thereupon the matter was settled, when Mr. Harvey tendered an apology. Another officer of the Bank, Mr. James used objectionable language on 28th February 1958. Thereupon the Union demanded an enquiry under Paragraph 517 of the Sastry Award, against him. At that time also there was an agitation, and the members of the Executive Committee, and the Union Office bearers namely, Sarvashri Khanna, Malhotra, Srivastava, Chakrawarti, and Kapoor, were threatened with dire consequences. These workmen led a deputation to the Manager on 1st March 1958. Police also were called in, at the time. There was a charge-sheet served against Shri Khanna, the General Secretary of the Union. A lock out also was declared for some hours. The workmen's case is that ultimately Mr. James had to express regret, and the charge-sheet served on Shri Khanna was withdrawn, as a result of the agreement arrived at on 7th March 1958. On behalf of the workmen we have Ext. W/347 the letter dated 1st March 1958 addressed to the then Manager, Mr. Brown, about the conduct of Mr. James. This is signed by Shri Khanna, the General Secretary of the Union. The Union requested the Manager to hold an enquiry against Mr. James, and also Mr. Bottril under Paragraph 517 of the Sastry Award. Nextly, we have Ext. W/348 dated 4th March 1958. This is another letter sent by the President of the Union to the Manager, and it was complained therein that instead of holding an enquiry against Mr. James and Mr. Bottril, a charge-sheet had been served on the General Secretary Shri Khanna, and that he had also been suspended. The Union pointed out that, under the provisions of the Award, the Manager could not appoint himself and other persons for holding enquiries, hear appeals, and take disciplinary action against the employees. Ext. W/349 is a copy of the resolution passed at a General-Body meeting of the Union, demanding an enquiry against the Officers and also withdrawal of the charge-sheet. Ext. W/350 is an agreement arrived at between the management on the one hand and the workmen on the other. It is stated, therein, that on 28th February 1958, as a result of an incident, the relations between the Bank and the Union became tense, that there was a strike on and from 4th March 1958, and that an agreement was arrived at between the parties. The terms of the agreement were, that the management withdrew the charge-sheet and a suspension order against Shri Khanna, the workmen were assured by Mr. James, that he did not mean any

offence to the leaders and Bank Employees' Federation, and the Union, and regretted the incident, which was due to misunderstanding. The Union called off the strike, and the management withdrew their charge sheet against Shri Khanna. Ext. M/449 is another document, wherein it was stated that Mr. Harvey had not used the words "fools" and "guilty", but that if the Union felt, he had used them, then he withdrew the same with regrets. It will thus be seen, that in the past there had been incidents, where relations between the workmen and the management had become strained and the management had been obliged to withdraw the charge-sheet against Shri Khanna.

96. Again, reference had been made on behalf of the workmen to an incident about a map, that was published by the Bank. Ext. W/305 is the balance-sheet for the year ended 31st December 1958 of the Bank. There is a map therein, in which Kashmir is not shown as a part of India. According to the evidence of Shri Syal WW8, on the day on which the abuse by the Manager and the Accountant took place, and when the latter threatened the members of the Executive Committee with dire consequences, the Manager was apprised of the fact, that in the map, exhibited in the balance-sheet, and in the Bank premises, Kashmir was not shown as included in the Indian Union Republic. Then the Manager said, that he was a Major in the Army, and that he knew how to deal with Indians. It does appear, that there was some correspondence about this matter, and Exts. W/550—553 in July, 1959 are relevant in this connection. These are communications addressed by the Delhi Trade Unions Action Committee to the Honourable Prime Minister. Ext. W/554 shows a starred question in Lok Sabha about the omission of Kashmir as part of India in the map published by National & Grindlays Bank. The answer on 25th March 1960 was, that the Bank expressed its regret, and offered to rectify the position in their Directors' Report for 1959. It may be noticed, that even though the Delhi Trade Union Action Committee addressed the letter in July, 1959, and the questions were answered in the Lok Sabha in March, 1960, we have the evidence of Shri Syal, which I accept, that the question of the Map was mooted with Mr. Brown even at the time the Executive Committee met him in March and first week of April, 1959. It is legitimate to draw the inference, that Mr. Brown was incensed at this also, and it is likely, that he gave the answer as deposed to by Shri Syal.

97. The contention on behalf of the workmen is, that the various incidents that preceded the serving of the charge-sheets show full well, that the management of the Bank was not only not well disposed towards the Union and its office bearers and active members, but was positively biased against them, and was anxious to get rid of them by some means or other, and that with this end in view served charge-sheets with false allegations on 11th April 1959. In this connection, it is argued, that it was not foreign to Shri Brown's nature to fabricate documents, because he had got up documents in the past. Reliance has been placed on Exts. W/546 and 547. Ext. W/546 is a letter dated 5th July 1957. It is to the effect, that one Shri Sukhpal was appointed as a temporary sweeper on emoluments of Rs. 2/- per day, and that such appointment being temporary was terminable at any time, without notice. Another document is Ext. W/547 dated 2nd September 1957. It is addressed to one Shri Sain Das, and it is mentioned there, that he was appointed as a temporary bearer with emoluments of Rs. 40/-, and that the employment, being temporary, was terminable, without notice. What is contended on behalf of the workmen is, that these letters were got up by Mr. Brown in order to prove, that the two workmen therein named were only temporary employees, whereas in fact they had been in employment from a considerable time, and that these letters were manufactured to deny them the privilege attached to persons, who served for more than six months at a stretch, according to the provisions of the Bank Award. It is pointed out, that Mr. Brown took charge of Delhi Office as Manager only in December, 1957, and that on the dates which these documents bear, he was not the Manager of the Delhi Branch at all. It is perfectly obvious, that he was not the Manager in July, and September, 1957, and these documents do certainly support the workmen's contention. According to the evidence of Shri Syal, Mr. Brown took office in Delhi Branch in December, 1957. Before him Mr. Kellman was the Manager. Mr. Brown pre-dated the two letters Exts. 546 and 547, to show, that the employees were temporary. Shri Syal has sworn that these are signed by Mr. Brown. The name of Shri Kishan Goyal appears in Ext. W/547, as "K.G.". He was an employee of Grindlays Bank. He was the Typist of the Manager, Mr. Brown. The services of the employees of Grindlays Bank were taken-over by National Bank. The above evidence proves that Exts. W/546 and 547 are ante-dated documents. This also amounts to unfair labour practice.

98. It is against the background of unfair labour practice by the management, as set out above, that we must appraise the charge-sheets served on 11th April 1959. It may be noticed, that there is no definition of "unfair labour practice" in the Industrial Disputes Act, but reference may be made to the National Labour Relations Act of America, where there is reference to the same in Sections 7 and 8. There is also mention of the same in the Trade Unions Amendment Act of 1947, which was however not brought into force, and in Section 28(k) there is definition of "unfair labour practice" by an employer. The contention on behalf of the workmen is, that generally it is understood, that any action on the part of the management calculated to undermine trade union activity is unfair labour practice. Without accepting the extreme contention, as stated above, in my opinion, any action of the management, which seeks to adversely affect the established rights of the workmen, based also upon usage, or practice, and amounting to conditions of service, can be fairly regarded as unfair labour practice. The remarks in Management Functions under Collective Bargaining by Ludwig Teller, Volume II, Article 281, page 762, are also important. The remarks in Indian Cycle Manufacturing Company (1951 I LLJ 390), and also in J.K. Industries (1951 I LLJ 44), and Kanpur Omni Bus Company (1951 II LLJ 483) are material. In Vanaspati Products (1953 II LLJ 851) it was held, that it would not be easy to have tangible evidence of unfair labour practice and it would be necessary to see whether the apparent cause is the real cause. In the case of Indian Bank (1953 I LLJ 230) it was found, that importing extraneous considerations amounted to unfair labour practice.

99. The contention on behalf of the workmen, is that considering the incidents, that had happened before, and especially considering the fact, that the workmen had preferred a complaint to the Head Office in London, demanding an enquiry against Shri Sarwal and Mr. Brown, the management retaliated by serving charge-sheets against the workmen, with untrue allegations. There is, the fact, that the charge-sheets were served under the signature of Shri T. B. Sarwal. I have set out the evidence on behalf of the workmen, which proves, that Shri Sarwal also abused the workmen. There was an enquiry demanded against Shri Sarwal also and a complaint was preferred against him to the Head Office at London. In the explanations furnished by the workmen, there are express allegations to the effect, that they had demanded an enquiry against Mr. Brown and Shri Sarwal for having used abusive language and calling them names, and of wrongfully confining them on 31st March 1959, that Shri T. B. Sarwal, an officer, against whom the workmen had a grievance, and in whose impartiality they had no faith, had appointed himself as an Enquiry Officer, that he was the man, who had made allegations against them, that this meant, that he was both the judge and the prosecutor, and that if the management proceeded with the charges, they were doing so at their own risk. The workmen asserted that the charge-sheets had been issued against them out of vindictiveness, and malice. In the subsequent letters also objections were taken to Shri Sarwal issuing the charge-sheets, and being the Enquiry Officer. Even Ext. M/1 to M/6, the Enquiry Registers show that this objection was being repeated. It is not without significance that the charges are after the pattern of the allegations contained in Ext. W/377, the complaint preferred by the workmen, and their apprehensions as expressed therein, came out true. What is important to note is, that a person, whom the workmen accused as being biased, and whom they accused of being responsible for the incidents and using abusive and threatening language, constituted himself arbiter of the destinies of the six workmen concerned. He issued charge-sheets, and he constituted himself the Enquiry Officer, and he was also the punishing authority. The workmen were pursuing the matter with the Head Office also, as can be seen from the correspondence already set out above. In the above circumstances, it is perfectly obvious, that the very initiation of the disciplinary proceeding was wrong. Such disciplinary proceedings could not have been initiated by persons against whom the workmen had preferred a complaint in terms of Ext. W/377, under Paragraph 517 of the Sastry Award.

100. In this connection it is relevant to refer to the decision in Chowdhry Vs. Union of India (1957 I LLJ 494). That shows that if the charge-sheeting and punishing authority was biased, then the enquiry was vitiated, because bias goes to the root of the matter. One of the rules of natural justice is, that not only should justice be done, but also should seem to be done. It is further stated, that, even though the principle, that the prosecutor cannot be a judge, is not strictly applicable to departmental enquiries, still he should not lower himself to the status of a common prosecutor, that is to say of a person who feels it a part of his function to bring the guilt home to the accused at any cost. He must

act with the detachment of a Judge since he is professing to exercise that dignified function. Though a departmental enquiry is not conducted with the rigidity of a judicial trial, still the person dealing with the enquiry at any stage is in the position of a judge, and the rules of natural justice demand, that he should not himself be personally interested in the case. He should be a person with an open mind, a mind, which is not biased against the delinquent. He should not have pre-judged the issue. He cannot act both as a judge and a witness. It is also laid down, that the Enquiry Officer must be careful to deal with the charges, as framed, and not depart from them, or import extraneous matters.

101. Again, another decision is Mineral Development Co. (A.I.R. 1960 Supreme Court 468). This also deals with the doctrine of bias. It was held, that, when bias is assumed to exist, the person, against whom this allegation is made, should not take part in any decision. It is not necessary, that there should be actual bias or prejudice. It is sufficient if there are circumstances creating a reasonable suspicion of bias. If, considering the circumstances, it is not possible to assume, that the person concerned would not bear to bring a fair and impartial mind, it must be held, that bias exists. The same principles are found in Subba Rao Vs. State of Andhra Pradesh (1953 I L.L.J. 209), and in Joti Pershad Vs. Superintendent of Police (A.I.R. 1958 Punjab 327). On the facts of the present case, the workmen were certainly entitled to have apprehension about this matter and entitled to impute bias to Shri Sarwal and Mr. Brown, especially in view of the various circumstances, prior to the institution of the charge-sheets and the commencement of the enquiry on 16th April 1959, and more especially, when they had also called for an enquiry against these person under Paragraph 517 of the Sastry Award. Shri Sarwal admits in his evidence, that the six employees did take objection to his being the Enquiry Officer, and that he could not be appointed Enquiry Officer. They also took the objection, that as he was to be produced as a witness, he should not be the Enquiry Officer. In my opinion, Shri Sarwal was not competent to issue the charge-sheets, or hold the enquiry or punish the workmen. This violated one of the most essential principles of natural justice. This shows, want of good faith on the part of the management. The Manager and the Accountant were not entitled to initiate the disciplinary proceedings at all especially when the workmen had themselves preferred the complaint against them, and had demanded an enquiry under Paragraph 517 of the Sastry Award. I find that the initiation of the disciplinary proceedings is wrongful and illegal, and that this alone is sufficient to vitiate the entire proceedings, and to justify the conclusion, that the dismissal of the workmen is not in good faith and is wrongful, and that it is an act of unfair labour practice, and victimisation for union activities, and that it is *mala fide*.

102. It has also been contended, that Shri Sarwal could not be the Enquiry Officer in terms of the Bank Award. What is pleaded is, that, according to Paragraph 521 of the Sastry Award, the Bank should nominate the Enquiry Officer, and the Appellate Authority. It is the case of the Bank, that a notice had been put up on 10th June 1958, i.e. Ext. W/585 (Ext. M/494), which is Annexure "E" in the statement of claim. It is signed by Mr. Brown, the Manager. It is to the effect, that the officer, empowered to hold an enquiry at the Branch, into disciplinary charges preferred against employees of the Bank, and to pass orders in disciplinary matters, was Shri T. B. Sarwal, and that the officer, who would hear any appeal, was Mr. G. W. Brown. Some argument was advanced, that this notification was really not put up on 10th April 1958, the date which it bears, and that this had been manufactured in the same way as Exts. W/546 and 547, with a view to suit the Bank's case, only after the enquiry proceedings had started against the six workmen in question. Be this as it may, it is important to note, that Mr. Brown constituted himself the Appellate Authority, and Shri Sarwal the Enquiry Officer. The contention on behalf of the Union is, that this notification is not valid in terms of the award. What is provided in the Sastry Award is, that the "Bank" should nominate the Appellate Authority, and the Enquiry Officer. It can hardly be contended, that by the word "Bank" is meant only the Manager of the Branch. It is not reasonable to hold, that Mr. Brown, who was the Manager of the Delhi Branch, could constitute himself the Appellate Authority, as though he represented the Bank. It is more reasonable to hold the view, that by the word "Bank" is meant the Board of Directors, or at least the General Manager, or at least the Head Office of the Bank. It cannot be said, that if the Delhi Branch was closed the Bank was closed. In this connection, it is pointed out, that in the order of reference, that ended in the Sastry Award, the principal office of the Bank is shown to be at Bombay and Calcutta. It is argued, that, in any case, so far as the Bank in

India is concerned, Calcutta is the Head Office. In this connection, Exts. W/544 and 544A have been produced. These purport to be communications from the London Office, and they are addressed to the President, All India National & Grindlays Bank Employees' Federation, Calcutta. It is stated therein, that the London Office were writing to the Principal Calcutta Manager, regarding the matters referred to. It is clear, that at least the Principal Office in India is the Calcutta office. The notice, Ext. W/585, referred to above, is not valid in terms of the Bank Award, and the appointment thereby of Mr. Brown as Appellate Authority by himself and Shri Sarwal as Enquiry Officer for disciplinary action, does not appear to me to be in accordance with the terms of the Sastry Award. In any case, it cannot be deemed to be valid in face of the enquiry, demanded by the workmen against these two individuals. The above circumstance also shows that the initiation of the disciplinary proceedings is not valid.

103. Taking, various circumstances, referred to above, which go to the root of the matter, it is obvious, that the initiation of the disciplinary proceedings, is bad, that it is vitiated by bias, want of good faith, and the action taken as a result of such enquiry, is not *bona fide*, and amounts to unfair labour practice and victimisation. In the above view, the dismissal of the 6 workmen is wrongful, and this by itself is sufficient to warrant setting aside the order of dismissal.

104. In this connection reference has been made to the evidence of Shri Syal, WW 8. According to his evidence, he read through the special letters received from the Bombay and Calcutta Offices of the Bank, taking exception to the initiation by the Delhi Branch, of disciplinary proceedings against the workmen, in contravention of the agreement. In one of the letters, it was said, that the Bank was morally bound to honour the 1954 agreement. In another letter of Calcutta Office, it was stated, that an enquiry should have been held against Shri Sarwal and Mr. Brown, and that they should not have anything to do with the enquiry, or act as Appellate Authority as an enquiry had been demanded against them earlier. The Calcutta Office also said, that the enquiry should be held by a manager of a branch other than Delhi, and that the Calcutta Office would appoint an Enquiry Officer and the Appellate Authority, as it was the principal Office in India. The Delhi Manager replied, to these letters, that all his actions were correct, and that there was no agreement. It will be seen, that the letters, that are referred to by Shri Syal in his evidence have not been filed. The management pleaded privilege in this connection. Shri Syal has answered in cross-examination, that he read these special letters in Delhi in the month of June. He declined to disclose the source from which he was able to have access to these letters. He is however definite, that he looked into them. It is urged by Mr. Parvana that these letters would indicate, that the Calcutta Office was not satisfied, with the correctness of the action taken in Delhi, and this also shows, that initiation of the proceedings, was not correct. There was an application (I.A. 18A of 1960) by the workmen calling upon the Bank to produce the letters. The Bank, however, pleaded that they were confidential and that they had no relevance to the point at issue. This petition was dismissed by order dated 9th February 1960. However, even apart and independent of any argument based upon the letters, referred to, the circumstances, detailed above, are sufficient to establish, that the initiation of proceedings, with Shri Sarwal as Enquiry Officer, by the management in Delhi, was wrong and unjustified, and an act of unfair labour practice, and an act of bad faith.

105. Secondly, certain other circumstances have been sought to be established, as justifying the conclusion, that the dismissal is wrongful.

106. Attention has been drawn on behalf of the workmen to the circulars, that were issued by Mr. Brown, and also the letters received from the Head Office. Ext. W/391 is a circular, that was issued by Mr. Brown. This purports to be a memorandum on the disturbances and acts of indiscipline at the Chandni Chowk, Delhi Branch of the National and Grindlays Bank Limited. It purports to be signed by Mr. Brown, the Manager, and is dated 5th May 1959. The Manager said in the circular, that there was no actual agreement in June and July 1954, about the entry of adverse remarks, as contended on behalf of the workmen. As the disturbances continued, the Manager was obliged to issue a warning to the staff on 2nd April 1959, which was affixed on the Bank Notice-Board. Despite this warning, the demonstrations and disturbances continued, and the Manager had no alternative but to serve charge-sheets and suspend the six members of the staff, who, it was considered, were directly responsible for creating the disturbances. Since then the Union and the Delhi State Bank Employees Federation had endeavoured to create a feeling of unrest in Delhi and New Delhi Branches of the Bank, and these tactics had been employed and attempted, to intimidate the Manager into withdrawing the original letters and the subsequent charge-sheets, and the suspension orders. The Manager

further said, that no provision of the Award had been violated, that the officers had not used any abusive and threatening language, and that the further accusation of wrongful confinement on 31st March 1959 was quite frivolous. Along with this memorandum should be taken Ext. W/397 dated 11th June 1959. This purports to be addressed to the constituents of the Bank in reply to their letter dated 20th May 1959. Therein there is reference to the letter received by the Head Office dated 20th June 1959, and addressed to the General Manager, and signed by certain constituents of the Bank. It is recited in paragraph 3. as follows:—

"Instead however of resorting to these constitutional means, a section of the staff organised an unruly demonstration, in which they persisted in spite of warnings by the Branch Manager. As the demonstration were clearly inconveniencing the branch customers, and rendering it impossible to continue the efficient conduct of the Bank's business, the staff were formally advised, that the demonstrations were clearly unconvincing the branch customers, and in the event of their continuance. It was only after this order was deliberately flouted, that the Branch Manager considered, that he had no option, but to issue charge-sheets against the ring leaders of the demonstrations." The workmen were also accused of resorting to every kind of delaying tactics, adopted by the Union representatives. On the back of Ext. W/397 is contained the representation made by the 101 constituents.

107. Nextly we have the London Office communications to the Union, and the correspondence has been more fully set out above. It may be recalled, that in every one of these letters it was stated, that the Manager had the full support of the London Office. It is important to note, that the documents above referred to, are prior to 17th June, 1959. It is on this date, that the Enquiry Officer is alleged to have communicated his findings, holding, that the workmen had been proved to be guilty of all the charges, as contained in the charge-sheets, against them. The contention on behalf of the workmen is, that the above communications of the Branch Manager, and of the London Office show, that they had fully made up their mind even before the enquiry was over that the workmen were guilty of the charges levelled against them, and that it was for this reason, that the London Office began to say, that the Manager had their full support. It is argued that this shows, that the workmen's cause was lost even before the enquiry began, that management, including the Manager, and the London Office, had made up their minds about the guilt of the workmen even before the enquiry was over, and that in such circumstances the Enquiry Officer had no option at all to come any independent conclusion, even assuming, that he was an unbiased person. In other words, what is contended is, that Shri Sarwal, being what he was, an Assistant Accountant, i.e., subordinate to the Manager, and to the Head Office, had no option except to hold the workmen guilty of the charges, on pain of losing his post in the Bank. The above contention is also entitled to weight. The above Communications did not leave any room for independent thinking or action, by the Enquiry Officer. It is hardly possible, that Shri Sarwal could be expected to keep an open and independent mind in the face of the communications of the Branch Manager and the Head Office. The above circumstance also is indicative of bias, and betrays lack of good faith, and is also an act of unfair labour practice. It was highly objectionable to assume the guilt of the workmen, even before the enquiry, was over, as was assumed in the communications referred to above. This also by itself vitiates the entire enquiry, and goes to the root of the matter.

108. Reference has also been made to Ext. W/336, dated 29-6-1959, wherein it was written by the London Office, that the manager had pronounced the sentence of dismissal. This shows that it was the manager Mr. Brown who was at the back of the whole proceedings, and that Shri Sarwal was only his mouth-piece and carrying out his behests. This also is indicative of bias on the part of Mr. Sarwal who had no independent mind of his own.

109. Thirdly, it has been urged, that, according to the management, Shri Sarwal concluded the enquiry on 17th June, 1959. The evidence of Shri Sarwal is, that he never closed the enquiry on 17th June, 1959. In the next breath he says, that he wrote letters to each employee on 17th June, 1959 to the effect, that the charges had been established against them, and that they must say what they had to say in mitigation of punishment, fixing 22nd June, 1959, as the date therefor. He says, that on 22nd June, 1959, the workmen asked, that the whole proceedings should be read out. Shri Sarwal did not read out the proceedings. He informed the workmen, that they should present themselves

on 28th June, 1959, to be informed of the punishment. He read out from a paper written in pencil, and unsigned, that the workmen were proposed to be dismissed from service. The pencil writing consisted of 6 or 7 lines. This pencil writing was written by him. He cannot produce it now. He does not remember, if it had been destroyed. He cannot put his hand on it now. The employees may have said, that they had no records and that as the punishment had been decided upon, they could not do anything, or say anything. The contention on behalf of the workmen is, that, even assuming, that Shri Sarwal closed the evidence for the management, no opportunity at all was given to the six workmen for producing the evidence in their offence. In other words, it is contended, that Shri Sarwal arbitrarily closed the enquiry, and held the workmen guilty on 17th March, 1959, on all the charges against them, even without calling upon them to produce their defence witnesses, and examining them. No communication has been produced on behalf of the management, that the evidence for the management had been closed, and that the workmen should bring their witnesses if any for the defence. The workmen have deposed, that they had taken defence witnesses with them even on the very first day of the enquiry, and that they were not allowed to sit in the enquiry room, or be present at the time of enquiry. Certain loose typed sheets have been posted in Exts M/1-6, and these have been relied upon behalf of the management, as containing the findings of the Enquiry Officer reached on 17th June, 1959. Even assuming this to be true, it is proved, that the findings were reached without informing the employees, that the management's evidence was closed and that the workmen should bring their witnesses in support of their contention. The evidence of Shri Syal is, that his defence witnesses were Sarvashri Jai Ram, Satish Kumar, Rajinder Srivastava of the Mercantile Bank, and that these had been taken by him even on 16th April, 1959. According to the evidence of Shri Malhotra, he had taken the defence witnesses on 16th April, 1959. They were three witnesses. He took them inside the enquiry room. Shri Sarwal said to them, "Who called you. Get out. Sit outside". Then they felt offended, as they were respectable persons. Then they went outside and stood outside the room. The room, in which Shri Sarwal conducted the enquiry was an air conditioned room. The witnesses, whom he had taken, were Sarvashri Hari Narain, Tilak Ram, and Jai Ram. According to the evidence of Shri Devi Pershad, his defence witnesses were Sarvashri Sri Kishan, Gya Pershad, Narayan Pathak, and Jagdish Pershad. He took them with him, but they were all ordered out by the Enquiry Officer, and their evidence was not recorded. It is contended, that this action of the management in closing the enquiry, and holding the charges proved on the 17th, without intimating the workmen that the management had closed their evidence and that they should enter on their defence, and examine their defence witnesses, whom they had taken with them even on prior occasions also, vitiates the enquiry, and goes to the root of the matter. Every one of the workmen has deposed in his evidence, that no opportunity at all was given to him to lead evidence on his behalf, and that he was not permitted to examine the witnesses in his defence. I am satisfied with the truth of this evidence, and I do not believe the evidence on behalf of the management to the contrary. This also is an act of unfair labour practice, and an act of bad faith.

110. In the third place various contentions have been raised on behalf of the workmen, with reference to the manner in which the enquiry was conducted by Shri Sarwal, and it is argued, that various circumstances, appearing from the evidence will prove beyond doubt, that the so-called enquiry was nothing but a farce and a subterfuge, and that the workmen have been wrongfully dismissed from service, as a result of such enquiry. Elaborate reference has been made on either side of the documents, that pertain to the enquiry, as against each of the individuals now in question, and it is necessary to refer to the same in detail.

111. First, taking the case of Shri Prem Kishan Khanna, Exts. W/1-30 relate to him. Leaving apart the charge and the explanation, Exts. W/1 and 2 we have Ext. W/3, according to which Shri Khanna authorised Shri Prashar, an officer of the Bank of Bikaner Employees' Union to represent him in the enquiry. Ext. W/4 dated 22nd April, 1959 is a notice informing Shri Khanna, that the enquiry was fixed for 1st May, 1959 at 11 A.M. Under Ext. W/5 dated 27th April, 1959, the date of enquiry was fixed for 11th May, 1959. Ext. W/6 dated 8th May, 1959 shows that a request for adjournment made under Ext. M/5 was granted by Shri Sarwal, and that the enquiry was adjourned to 18th May, 1959. In Ext. W/9 dated 9th May, 1959, the workman was asked to be present on 18th May, 1959, and also to bring any evidence in his defence. Ext. W/10 dated 18th May, 1959 is a communication to the Manager, stating, that Shri Sarwal

was a witness of Shri Khanna, and that the latter should be instructed not to hold the enquiry, and that Shri Khanna should be permitted to produce all his evidence. This bears an endorsement, that it was received by Shri Sarwal on 18th May, 1959. By Ext. W/1 dated 19th May, 1959, it was intimated, that the enquiry was adjourned to 25th May, 1959 at 10-30 A.M., and that, if Mr. Khanna did not appear, the matter would be proceeded with *ex-parte*. In Ext. W/12 dated 25th May, 1959 various objections were taken on behalf of Shri Khanna. One of them was, that the Enquiry Officer had not permitted Shri Rajinder Syal to represent Shri Khanna in the absence of Shri Puri, who was sick. Ext. W/13 is another communication dated 25th May, 1959, containing many objections to the enquiry. Therein it is stated, that the Enquiry Officer was taking the advice and assistance of Shri Chowdhry, that he had not permitted his representative to appear, that Shri Sarwal could not act as Enquiry Officer, that, in spite of various objections raised, Shri Sarwal had replied, that he was there to defend the interests of the Bank, as an Officer of the Bank, that he had been instructed to act in a particular manner by the Manager, who had already got approval of the Head Office for dismissal of the six employees, that the Enquiry Officer had refused to record the objections, that the Enquiry Officer was not recording the proceedings with sufficient fullness, that the Enquiry Officer was seeking advice from the lawyers, and the labour adviser, and also holding meetings with them, that Shri Khanna had objected to the Enquiry Officer using derogatory language during the enquiry, and shouting loudly to the employees and representatives during the enquiry, and that the objections were, therefore, placed on record. Ext. W/14 dated 15th June, 1959 is a letter addressed to the Manager. Therein reference is made to Ext. W/15 of the same date. It is addressed to the Enquiry Officer, and contains various objections to his holding the enquiry, and also the manner of holding the same. The Enquiry Officer was informed that he should not proceed with the enquiry till the matter was decided by the authorities concerned. Then we find Ext. W/16 dated 17th June, 1959, wherein Shri Sarwal wrote, that Shri Khanna was found guilty of all the charges, as mentioned in the charge-sheet, that his acts constituted gross mis-conduct under Paragraph 421(4)(c),(e),(j) and (l) of the Sastry Award, punishable under Paragraph 521(5) of the Sastry Award, and that Shri Khanna should present himself on 23rd June, 1959 at 3 P.M., or soon thereafter to submit in writing any extenuating circumstances that he wished to rely upon in mitigation of the punishment. Ext. W/13 dated 20th June, 1959 is a letter of Shri Khanna, addressed to Shri Sarwal, acknowledging receipt of the letter dated 17th June, 1959. Shri Khanna pointed out, that the Enquiry Officer had not sent him the copy of the proceedings, along with the said letter, that in the past also the Enquiry Officer had not supplied him a copy of the proceedings, and that the Enquiry Officer should supply him a copy of the proceedings, so as to enable him to submit his statement, and that if the Enquiry Officer was unable to supply the same, the matter should be adjourned to some date beyond 22nd. Ext. W/19 is another letter, addressed to the Enquiry Officer, in answer to the letter dated 17th June, 1958. Therein Shri Khanna wrote, that he should await the decision of the Government of India, in respect of the irregularities committed by him, that his appointment itself as Enquiry Officer was challenged, as being contrary to the provisions of Paragraph 521(12) of the Sastry Award, and that even otherwise he could not hold the enquiry for various reasons, and that the matter must be adjourned beyond 22nd June. Ext. W/20 is a letter dated 22nd June, 1959, addressed to Shri Sarwal protesting against the presence of Shri Roy Chowdhry and Shri Suraj Parkash, a Notary Public, and Shri Khanna objected to their guiding the Enquiry Officer in the enquiry, and stated that in effect, the enquiry was being conducted by the lawyers. Ext. W/21 is dated 22nd June, 1959, and therein Shri Khanna wrote, that he had requested the Enquiry Officer to read out the proceedings before arguments were started, that the Enquiry Officer had refused to do so, that the workman had insisted that this was essential, because many things had been recorded behind his back, and that he strongly protested against the same. Ext. W/22 is a document dated 22nd June, 1959, containing elaborate objections to Shri Sarwal holding the enquiry, and the manner in which he held the same. By Ext. W/23 dated 27th June, 1959, Shri Khanna wrote, that the proposed punishment of dismissal was arrived at on 23rd June, 1959, that 3 days had elapsed since then, but the same had not been communicated in terms of Paragraph 521(9) of the Sastry Award, that as the enquiry had concluded, and no action had been taken in accordance with the said provision, he reported himself for duty, and that he must be paid full wages for the period of suspension. Ext. W/24 is a communication of the management, which bears the date 24/27th June, 1959. Therein the Enquiry Officer wrote, that he had advised on the 23rd, that the proposed punishment was dismissal, that however Shri Khanna



had not submitted any reason, which could be construed as mitigating circumstance, that further opportunity to make his submission on this point was given, that this was not availed of, that at the request of Shri Khanna, and his representative, Shri Parvana, a further opportunity was given on 3rd July, 1959, and that the matter stood posted to that date. Shri Khanna was advised, that he might urge any circumstances in mitigation of the circumstance of dismissal. Ext. W/25 is a letter dated 29th June, 1959 by Shri Parvana to the Manager. This purports to be the reply to Ext. W/24. It is stated therein, that the Enquiry Officer had ceased to exist, and that the said letter of 24/27th June, 1959 could not be issued by him as he had become *functus officio*. Shri Parvana also write, that there was no such request from him for a hearing on the proposed punishment of dismissal, and that it was a crude lie to defeat the ends of justice. It was further written, that what all had transpired, had been put down in writing in their letters, jointly signed by them. Ext. W/26 is a letter dated 2nd June, 1959, sent by Shri Khanna and therein it is written, that he had presented himself and 22nd June, 1959 before the Enquiry Officer, that he was directed to be present on 23rd June, 1959, when the punishment would be advised to him, that on 23rd June, 1959 he was present, as directed, along with his representative, Shri Parvana, that he informed on 23rd June, 1959, that the Enquiry Officer became *functus officio*, on his deciding the punishment, that there was no more enquiry pending against him, that the Manager had not given his decision in spite of reporting himself for duty on 27th June, 1959, along with the other employees, and that, therefore, he should be allotted his duties, without delay. Ext. W/27 is a letter dated 2nd July, 1959, addressed to the Enquiry Officer, and this purports to be in reply to the letter dated 24/27th June, 1959. In this letter, Shri Khanna declared, that there was no request for any further opportunity, that no further opportunity was in fact given, that even on 23rd June, 1959, the Enquiry Officer had closed the proceedings, that no request was made by him, or Shri Parvana, for further representation, and that the letter under reply was an after-thought, prepared after the receipt of the letter of the workmen, reporting themselves for duty on 27th June, 1959. Ext. W/29 is a letter dated 2nd July, 1959, addressed to Shri Khanna, stating, that the Enquiry Officer had considered the submissions made by him, that the objections, regarding the Enquiry Officer's competency, had been disposed of, that in the letter dated 24/27th June, 1959 it was decided to give a further and final opportunity of hearing on 2nd July, 1959, about the infliction of punishment, that on the sub-missions, made by the workman, there were no circumstances whatever in mitigation of punishment, that, on the contrary, his mis-conduct had been aggravated by his conduct during the enquiry proceedings, and that the Enquiry Officer did not see any reason, why the proposed punishment of dismissal should not be confirmed. The workman was informed, that he was dismissed with effect from 2nd July, 1959.

112. So far as Shri Rajinder Lal Syal is concerned. Exts. W/31-93 are the document produced on his behalf. Among these, Ext. W/55 is a letter dated 8th June, 1959, in which Shri Syal protested against the presence of Shri Roy Chowdhry, the Bank's Labour Officer, and another unknown person, who was no other than the Notary Public. The Enquiry Officer was requested to withdraw them. In Ext. W/56, Shri Syal requested permission to bring an Assistant along with his representative. In Ext. W/57 dated 8th June, 1959 Shri Syal pointed out, that according to Paragraph 521(8) of the Sastry Award, the proceedings should be recorded by the Enquiry Officer, with sufficient fullness, that he was not doing the same, and that he must bear in mind the directions in the Award. There is another letter on the same day, Ext. W/58, by Shri P. L. Syal, his representative, stating that the allegations in the chargesheets were not set out clearly. In Ext. W/59 dated 8th June, 1959, Shri P. L. Syal requested the ruling of the Enquiry Officer in the matter of objection taken to his appointment as Enquiry Officer, so that he may approach the appropriate authorities, and that as the Enquiry Officer had refused to record it, he was filing that letter. Ext. W/60 is another protest wherein Shri Syal wrote, that the Enquiry Officer was not permitting him to raise objections. In Ext. W/61 dated 8th June, 1959 it was stated, that Shri Suraj Parkash, Notary Public was present in the enquiry room under the directions of the Enquiry Officer, that he was advising on certain matters, that, in spite of the workman's request to have the objection recorded, the Enquiry Officer did not do so, that the workman had objected to the presence of the Bank's Labour Adviser also, that these persons were sitting in the room to guide and assist the Enquiry Officer, and that strong objection was made to the same. Ext. W/62 is a further statement filed with the Enquiry Officer by Shri Syal, that full opportunity, to cross-examine the Bank's witness, Shri Roy Chowdhry, was not given, and that many questions, which had been

put, were meant to prove the integrity and *bona fides* of the witness. Exts. W/63 and 64 are letters dated 9th June, 1959, in which Shri Rajinder Syal took objection to the proceedings before the Enquiry Officer. Ext. W/69 is a letter dated 15th June, 1959, to the Enquiry Officer, objecting to his holding the enquiry, and Ext. W/70 is the forwarding letter, addressed to the Manager. Then we have Ext. W/71 dated 17th June 1959 by Shri Sarwal holding Mr. Syal guilty of the charges. Ext. W/73 onwards relate to the proceedings, that took place subsequent to 17th June, 1959, and the letters are practically similar to those referred to in the case of Shri Khanna. I may however, particularly, refer to Ext. W/74 dated 20th June, 1959, wherein the workmen prayed for supply of copies of proceedings, in order to enable them to show exonerating circumstances in mitigation of punishment. There is an endorsement by Shri Sarwal as follows:—

“Copy of proceedings cannot be supplied. It is not required by the Award. No postponement can be given.” Ext. W/78 is a copy, of the letter dated 23rd June, 1959, wherein it is written that on that day the Enquiry Officer read out from an unsigned statement written in pencil, that the said statement was not supplied in spite of request, that the Enquiry Officer had communicated, that the appropriate punishment was dismissal, that the workman had asked him to give the statement in writing, that he had refused to do so, that they had asked for time till 10 A.M. by the next day, that he did not agree, that the Enquiry Officer insisted on the workman's stating something orally in mitigation, that the Enquiry Officer summarily rejected the request of the workman, that the action of the Enquiry Officer, amounted to violation of Paragraph 521(10)(a) of the Sastry Award, besides being against the rules of natural justice, and that accordingly the protest was handed-over to him. The Enquiry Officer wrote thereon as follows:—

“It is incorrect, that the Enquiry Officer asked the charges to give anything in writing before leaving. It was repeatedly made clear, that they were being offered a further opportunity to state anything they had to in mitigation of the punishment, and if they did not avail of it, they were themselves to blame. A hearing had already been given on the 22nd June, and yet another opportunity was being given today. They were told by letter dated 17th June, that they had been found guilty of the charges, and that they had another opportunity to prepare their case, and to state what they wish in mitigation of punishment. They are again requested to avail of the opportunity being given. Signed T. B. Sarwal 23rd June, 1959”. Ext. W/79 is another letter dated 23rd June, 1959, that was given by all the workmen, in answer to the note written by Shri Sarwal. Therein they said, that the letter dated 17th June, 1959 was replied to by the workmen, that he had not conveyed in that letter of 17th June, 1959, the proposed punishment that is was communicated only on that day, that in their letter they had pointed out the various irregularities, that he should communicate to them in writing the proposed punishment, and give a hearing on the same, and satisfy the requirements of Paragraph 521(10)(a), that further it was surprising, that, when they asked him to read out from the proceeding registers in each case the alleged statement or the findings about the proposed punishment, Shri Sarwal had admitted that the findings were yet to be drafted and recorded by him, that the workmen took serious objection to the methods adopted by him, that if the Bank's lawyer could not prepare the findings he should give a copy of the findings in each case and then fix a date of hearing on the proposed punishment, as required in the Award that he had rejected this request as well, that he was guilty of violating the provisions of the Award, and that he should supply a copy of the proceedings and fix a date for the proposed punishment. The letter Ext. W/80 is dated 24th June, 1959, but it does not bear the additional date 27th as is found in the letter written to Shri Khanna. Ext. W/88 is the order of dismissal dated 2-7-1959.

113. In the case of Shri Inder Narain Kapoor, Exts. W/94—147 are the relevant documents. It is sufficient to refer to Ext. W/116 dated 20th May 1959, wherein Shri Kapoor stated, that he wanted to produce Shri Sarwal, the Manager, and Shri Roy Chowdhury as witnesses in his case, and that as the Enquiry Officer was requested to appear in the enquiry as a witness, he should not hold the

enquiry himself, as otherwise it would amount to shutting out the evidence necessary for his defence, and that it would render the enquiry infructuous. Ext. W/118 is a copy of the telegram that was sent to the Manager as Appellate Authority, protesting against the mis-behaviour, and the derogatory language used by Shri Sarwal. It was stated therein, that he had refused to record the statements made, and objections raised, that the enquiry record was being fabricated, that he was seeking help from the Bank's Labour Adviser, that he was seeking help from the Manager by telephone, that he was leaving blank spaces in the enquiry record to write some thing behind his back, and that the enquiry was a farce and a subterfuge. Ext. W/119 is a copy of the telegram sent to the Conciliation Officer. Ext. W/120 is a copy of another telegram sent to the Conciliation Officer, stating, that the Enquiry Officer had used objectionable language against him, and his representative, that he had refused to record their points on the ground that he was instructed by the Bank only to record evidence, that he had turned them out, that, when he insisted upon his presence, this was denied, saying that the Enquiry Officer was following the Bank's procedure in the enquiry, and that the workman protested against the conduct of the enquiry officer. A copy of the same, Ext.W/121 was sent to Mr. Brown. Ext.W/122, dated 23rd May 1959 is a letter, addressed to the Enquiry Officer, setting out the objections. Ext. W/124, dated 25th May, 1959 is the reply of the Enquiry Officer to the telegram, and therein Shri Sarwal wrote, that Shri Kapoor and his representative had refused to participate in the enquiry, and walked out of the room, that he and his representative took part in and instigated others in a demonstration, in the office premises, during working hours, involving disorderly behaviour, and that he had no option, therefore, but to continue the enquiry *ex-parte*. However, as a special case the enquiry was adjourned to 30th May 1959, at 10-30 A.M. to give an opportunity for cross-examining the Bank's witnesses. This is said to have been sent by registered post. Ext.W/125 is the postal cover. Ext.W/126 is the letter by Shri Kapoor, acknowledging receipt of the letter dated 25th May, 1959, but it is stated, therein that it was only received on 2nd June, 1959. The workman wrote further that the accusation against him and his representative was false. Ext.W/127 is the letter dated 15th June 1959, addressed to the Enquiry Officer, objecting to the enquiry and Ext.W/128 is a copy of the letter, forwarding the complaint against the Enquiry Officer to the Manager. Ext.W/129 dated 17th June, 1959, is the letter, informing Shri Kapoor, that the charges against him had been proved, and that he should show cause in mitigation of punishment. In Ext.W/131 dated 20th June, 1959, wherein there was a demand for supply of copies of proceedings, Shri Sarwal wrote as follows:--

"Copies of proceedings not provided for by the Award". No postponement can be given. "In Ext.W/134 dated 22nd June 1959, which is a reply to the letter dated 17th June 1959, of the management, Shri Kapoor wrote, that it was surprising as to how the Enquiry Officer had abruptly closed the enquiry, and given his findings, that the letter dated 25th May, 1959 was received by him only on 2nd June, 1959, that accordingly he could not be present at the enquiry, that a letter to this effect was sent on 3rd June 1959, that this remained unreplyed, that a further letter dated 15th June 1959 had been addressed to the Enquiry Officer and also to Mr. Brown, and that the Enquiry Officer had also shut out the opportunity of leading evidence on the workman's behalf. Ext.W/143 is a letter dated 2nd July 1959, dismissing the workman.

114. Next taking up the case of Shri Parkash Lal Chakrawarti, the documents are Exts.W/148 to 195. Leaving apart the earlier documents, Ext.W/170 dated 4th June, 1959 is the letter, in which the workman was informed, that the Enquiry Officer fixed the date of enquiry on 10th June, 1959. Ext.W/172 is a telegram to this effect. Ext.W/173, is a letter of the workman dated 10th June, 1959, stating, that he had presented himself at the enquiry on that day, that he found an unauthorised person, a lawyer and Notary Public, by name Shri Suraj Parkash present there, that he was attending the domestic enquiry, for the purpose of conducting the same, that the workman had pointed out, that Shri Suraj Parkash had no authority to be present there, and stated to the Enquiry Officer, that he would wait outside while the matter was considered, that thereupon the Enquiry Officer asked the Peon to shut the door on Shri Chakrawarti, that, when the door was opened, he entered the room, but was immediately told to get out, that subsequently after waiting upto 11.15, the Enquiry Officer replied to Shri Chakrawarti that he was not willing to dispense with the lawyer and the Notary Public, and that Shri Chakrawarti lodged his strong protest. Then we have Ext. W/176 of 17th June 1959, holding Shri Chakrawarti guilty of the charges. In the case of this workman also the Enquiry Officer endorsed on Ext.W/179, dated 20th June, 1959, that there was nothing in the Award, by which copies of proceedings were to be given. Ext.W/182 is a copy of the letter, containing various

objections raised to the enquiry. Ext.W/190 is a letter dated 29th June 1959, and it refers to the fact, that one Shri Juneja, a Notary Public came to Shri Chakrawarti's house on 28th June 1959, that he had informed the workman, that he had come to deliver a letter from the National and Grindlays Bank, that he found, that the letter was dated 24th June 1959, that the workman was informed, on 23rd June 1959, about the punishment of dismissal, and that it was false to say, that any further opportunity was given to him after that date. Ext.W/193 dated 2nd July 1959, is the final order of dismissal.

115. With reference to Shri Devi Pershad, the documents are Exts.W/196-241. By Ext.W/202 the workman was informed, that the enquiry was fixed for 6th May, 1959. On 4th May, 1959 Shri Devi Pershad wrote, that the charges against Shri Lajpat Rai Malhotra were similar to those against him and that he should be permitted to participate in the enquiry on 4th May, 1959, as otherwise his case was likely to be prejudiced. On 6th May 1959, Shri Devi Pershad gave the names of 6 representatives, but the Enquiry Officer ordered, that only one could be allowed. Ext.W/206 is a letter dated 12th May 1959, addressed to the Manager, intimating, that the workman wanted to produce Shri Sarwal as a witness in his case, and that he must be instructed not to hold the enquiry, and that Shri Sarwal should be instructed accordingly. Ext.W/207 is a letter dated 12th May, 1959, addressed to Shri Sarwal, that he was not recording in the proceedings the objections raised by him, that Shri Chowdhry was guiding the proceedings, and that the Enquiry Officer had said, that it was his right, and that Shri Roy Chowdhury, who was guiding him in the enquiry, could not be allowed to appear as a witness. Ext.W/208 is the telegram sent to the Conciliation Officer. Among other objections, it was stated, that when the enquiry was resumed on 12th May, 1959 at 2-30 p.m. the cross-examination of Shri Roy Chowdhury was not allowed, and that the Conciliation Officer should intervene. Ext.W/209 is a copy of another telegram dated 12th May, 1959, objecting to the enquiry, and the procedure followed, and stating, that the enquiry was a mere farce. Ext.W/210 is a letter dated 12th May, 1959, to the effect that Shri Roy Chowdhry was examined as a witness for the management, that the Enquiry Officer closed the evidence of Shri Roy Chowdhry at 1-45, that, when it was resumed at 2-30 p.m., the Enquiry Officer had not permitted Shri Devi Pershad to cross-examine Shri Roy Chowdhry, that even this objection was not recorded, that telegrams were sent in this connection, that Shri Sarwal had stated, that he was instructed to dismiss the employees concerned and hence would not listen to any objections, and that it was open to the employees to do anything they liked, and that he would act in the matter as instructed by the Manager, because he could not act independently. Ext.W/211 dated 13th May, 1959 is the reply to Ext.W/210, and therein the Enquiry Officer said, that Shri Devi Pershad had had full opportunity to cross-examine Shri Chowdhry, that he did not avail himself of the same, that Shri Devi Pershad and his representative walked out of the room at 3-15 p.m., without permission, and that he was prepared to give another opportunity to cross-examine any or all of the Bank's witnesses, and hear evidence on behalf of the workman on 16th May, 1959. Ext.W/213 is a letter of the workman dated 21st May, 1959, in which he asserted, that he and his representative participated in the enquiry, but that the Enquiry Officer had not permitted the cross-examination of Shri Roy Chowdhry, and that the letter Ext.W/211 was an after-thought. It is further stated in Ext.W/213, that the Enquiry Officer's letter reached Shri Devi Pershad only on 18th May, 1959 at 1-30 p.m., that it was, therefore, not possible for him to attend the enquiry on 16th May, 1959, and that another opportunity should be given. Ext.W/214, is the letter of Shri Devi Pershad, requesting a reply to his letter dated 21st May, 1959. In Ext.W/215, dated 4th June 1959, the workman wrote, that the Postman had come to his house, with a registered letter, that it was not delivered to his mother, that he had not received the said letter, and that the same should be sent to him. Ext.W/216 dated 15th June, 1959 is a letter addressed to the Enquiry Officer, objecting to the enquiry, and Ext.W/217 of the same date is a letter, forwarding Ext.W/216 to the Manager. Later Shri Devi Pershad got the letter dated 17th June, 1959. Ext.W/218 dated 20th June 1959 purports to be the reply to the letter of the management dated 17th June 1959, wherein the workman was held guilty of the charges. Ext.W/219 dated 20th June 1959 contains an endorsement of Shri Sarwal, that copies of the proceedings were not required to be given by the Award, and that no postponement was possible. Ext.W/224 is the letter dated 22nd June, 1959, containing various objections to the enquiry. Ext.W/227 is the letter dated 27th June 1959, under which the workman reported himself for duty. Ext.W/235 dated 2nd July, 1959 is the letter of dismissal.

116. Lastly, we have Exts.W/242-303, relating to Shri Lajpat Rai Malhotra. Ext.W/250 contains the names of 6 representatives, but Shri Sarwal passed an order, that only one representative could represent the workman. In Ext.W/251, dated 4th May, 1959, Shri Parvana, representing the workman, wrote to the

Manager, that Shri Sarwal was not at all recording the proceedings, with sufficient fulness, that, when certain objections were raised, he had replied, that he would give the decisions on the points, after consulting the Bank's lawyer, and the Labour Relation Officer, and that protest was lodged against the attitude of the Enquiry Officer. Exts.W/252 and 253 are dated 4th May, 1959, and therein also objections were raised to the manner in which the Enquiry Officer, was conducting the enquiry. Ext.W/254 is dated 5th May, 1959, and therein the Enquiry Officer ruled, that no provision had been made in the Award for the representative to be accompanied by an Assistant, and that he was not agreeable to their presence, and that, in spite of repeated requests, the other persons did not leave the enquiry room, thereby interfering with the conduct of the enquiry. Ext.W/256 dated 11th May, 1959, contains objections against the procedure adopted by the Enquiry Officer. Therein, Shri Malhotra denied the allegations made by the Enquiry Officer. Ext.W/257 is a letter dated 11th May, 1959, addressed to Shri Malhotra by the Enquiry Officer. It is therein alleged, that a Court of Enquiry was called for 16th April, to enquire into the charges against Shri Malhotra, and 5 others, that the conduct of those persons at the enquiry made it impossible for the Enquiry Officer to continue with the enquiry, that thereupon it was adjourned to 28th April, that subsequently the enquiry was adjourned to 4th May that the representatives disrupted the proceedings, that the door of the enquiry room had been opened without authority, and that although the Enquiry Officer would in the circumstances have been perfectly justified in continuing the enquiry *ex parte*, in the interests of natural justice. It had been decided to adjourn the enquiry to 19th May. Ext.W/258 is the reply to the above-mentioned letter. With reference to the happenings on 16th April 1959, Shri Malhotra wrote, that the Enquiry Officer called all the 6 employees with their representatives, and witnesses, that they were not provided with seats, or even drinking water, that he had expressed ignorance about the provisions of the Award, that he called in the police with a view to terrorise and harass the employees, that he continued to be in constant touch with the so called labour relations experts, lawyers, and professional mischief mongers, that his behaviour towards the employees was arrogant, provocative, and insulting, that the Enquiry Officer abandoned the enquiry on that day, because he could not meet the objections of the employees, that he refused to allow the employees to be defended by a representative of a registered trade union, and that subsequently he had accepted the position taken by the employees. The letter further took exception to the attitude of the Enquiry Officer during the course of the enquiry. Ext. W/259 is a letter dated 11th May, 1959 by the Enquiry Officer, intimating that the enquiry against Shri Malhotra was adjourned to 19th May. In Ext.W/261 dated 19th May 1959 Shri Malhotra stated, that, in spite of requests, the proceedings in the case, were not being recorded, with sufficient fulness, that the Enquiry Officer should supply copies of proceedings in his case, and that, if this was not possible, he (Shri Chakrawarti), might be permitted to note the same in his own hand. On 19th May the workman gave Ext.W/262, stating, that the objection, that the charge-sheet should clearly set forth the circumstances against the employee, against whom disciplinary action was proposed, was a vital one, and that the Enquiry Officer should record the proceedings, with sufficient fulness. Ext.W/263 is a telegram dated 19th May, 1959 to Mr. G. B. Brown, protesting against the mis-behaviour of the Enquiry Officer, who refused to record his statements, and the objections raised, and it was also said that the record was being fabricated, that it was being made out according to Shri Sarwal's whims, that the workman apprehended gross mis-carriage of justice, and that the Enquiry Officer had turned him out together with his representative. In Ext.W/264, dated 19th May, 1959, Shri Malhotra wrote, that he lodged a strong protest against the use of derogatory language by the Enquiry Officer during the proceedings against him and his representative, that in the proceedings Register, many blank lines, had been left with a view to enable him to write anything he liked, and that this revealed *malu fide* intention. Ex. W/265 dated 28th May, 1959, is a letter, requesting an adjournment on account of illness. Ext.W/266 is a letter, informing the workman, that the enquiry would be on 4th June. Exts.W/267 and 269 are letters confirming the same, and adjourning the enquiry to 4th June. In these letters there is mention of the fact, that no medical certificate was enclosed Ext.W/271 dated 2nd June 1959, is a letter of Shri Malhotra stating, that at 1 P.M. on 28th May, 1959, the Medical Officer of the Bank had visited his residence, and examined him on his sick bed to ascertain, whether he was really sick, or not, that this action of the Enquiry Officer was felt by Shri Malhotra to be very painful, that this gave a mental shock to him, that this showed, that the Enquiry Officer doubted his honesty and *bona fides*, and that this was because of bias against him, as he had already demanded an enquiry under Paragraph 517 of the Sastri Award, and that the Enquiry Officer had tried to lower his prestige in the eyes of his neighbours, and his Doctor. The workman also wrote, that the enquiry might be adjourned from 4th June to some other date, as he was still ill. Ext. W/272 is the telegram, intimating that the next date of enquiry was 12th June 1959.

and Exts. W/273 and 275 dated 9th June, 1959 are letters, confirming the same. In Ext. W/278 dated 12th June, 1959 Shri Malhotra wrote, that on 11th June, 1959, when he was getting ready to make arrangement for his defence, two bad characters, undesirable, and anti-social elements entered his room forcibly, and began shouting for him, that they began abusing him, that they made as if to beat him, if he did not immediately take the letter with them, that a vast majority of the residents of the building gathered together, that, when these bad characters were asked to withdraw and walk-away, he saw them approaching Shri Suraj Parkash, who was a little way off, and talking with them, that he also saw Shri Suraj Parkash wildly gesticulating with them, that they again came to his house, that he found a cover thrown at the door, that he was informed by one of the residents, that this was thrown by the two unsocial elements, and that these latter were taken-away by Shri Suraj Parkash. Shri Malhotra also referred to a previous occasion when Shri Suraj Parkash had personally come and delivered a letter to him. The workman expressed his strong protest, and dis-approval against this practice of the Bank, whereby letters were sent through bad characters and outsiders. The workman wrote, that the enquiry might be adjourned to a further date. In Ext.W/279 dated 13th June, 1959 Shri Malhotra wrote, that the Notary Public, Shri Suraj Parkash, was associated with the enquiry on 12th June, 1959, and he must be informed, whether he would be associated with the enquiry on 15th June, 1959. In Ext.W/281, dated 15th June, 1959 the workman wrote, that from the attitude, which the Enquiry Officer was taking in the course of enquiry, he concluded, that it was all under the Enquiry Officer's directions, that Shri Suraj Parkash and his associates had mis-behaved towards him, that he was making a report in this respect, and that the Enquiry Officer should not proceed with the enquiry till this matter was finally disposed of by the Appellate Authority. The workmen also requested the Enquiry Officer to direct Shri Suraj Parkash to withdraw from the room. Ext.W/282 is a copy of the same letter, endorsed to Mr. Brown. Ext.W/283 is the letter dated 17th June 1959, informing Shri Malhotra, that the charges against him had been proved, and that he must show cause in mitigation of punishment. In Ext.W/285 the Enquiry Officer endorsed, that the copies of the proceedings were not required by the Award, and that the postponement could not be granted. Ext.W/289 contains the list of objections to the enquiry and the attitude of the Enquiry Officer in the same way as in the case of others, and it purports, to be a reply to the letter dated 17th June 1959. In this letter in paragraph 6 it is alleged, that Shri Malhotra had asked by letter dated 13th June 1959, whether Shri Suraj Parkash would also be present at the enquiry on 15th June 1959, the next date of the enquiry, that no reply was sent thereto, that on 15th June 1959, Shri Malhotra found the Enquiry Officer being assisted not only by Shri Roy Chowdhry, but also by Shri Suraj Parkash, that a letter was given, that Shri Suraj Parkash should not be allowed to be present, that a similar letter was addressed to Mr. Brown, that the Enquiry Officer knew about the mental condition of Shri Malhotra in view of the conduct of Shri Suraj Parkash on 11th June 1959, that in spite of all this and in spite of the Enquiry Officer having agreed to provide him an opportunity for cross-examination, and to lead evidence, it was something unheard of to say, that the Enquiry Officer had found him guilty of the alleged charges, that the Enquiry Officer had shut out his right to cross-examine the Bank's witnesses, and to lead evidence, and that the charges against him were all baseless, unjustified, and unwarranted. By Ext.W/297 the workman reported for duty on 27th June 1959. Ext.W/299 is a letter dated 2nd July 1959, regarding dismissal of Shri Malhotra. Ext.W/296 is a letter dated 2nd July 1959, requesting that the order of dismissal should be vacated, for the various reasons stated therein.

117. The above are the documents, that have been referred to before me in considerable detail in regard to the enquiry against the several workmen. These contain the various objections raised to the Enquiry by the workmen then and there, and we have also their sworn testimony, that the Enquiry was not just or fair. It seems to me, that the contention on behalf of the workmen, that the enquiry held by the Enquiry Officer is vitiated in more ways than one, and that it is not a fair and impartial enquiry according to the principles of natural justice must be accepted, and upheld. It is well established on the evidence, that objections were being taken at almost every stage to Shri Sarwal being the Enquiry Officer and want of confidence was expressed in him. This was not unwarranted in view of the complaint against him, and the Manager, and in view of the demand for enquiry against them under Paragraph 517 of the Sastry Award. Such demand for Enquiry against the Officers had been put forward on a previous occasion in the matter of the incident relating to Messrs James, Bottrill, and Harvey. The contention on behalf of the workmen is, that in view of the demand for Enquiry against Mr. Brown and Mr. Sarwal they had both become vindictive, and that they persisted in the enquiry against the six workmen, in spite of its being pointed out, that the initiation of the enquiry itself was illegal. It is

necessary to re-call the observations in *Mineral Development Limited vs. State of Bihar* (A.I.R. 1960 Supreme Court 468) at page 472. It is stated as follows:—

“Tribunals or authorities, who are entrusted with quasi-judicial functions are as much bound by the relevant principles, governing the doctrine of bias as any other judicial tribunal. This Court in a recent decision in *Nageswara Rao V. The State of Andhra Pradesh* (A.I.R. 1959 S.C. 376) observed as follows:—

“The principles governing the “doctrine of bias” *vis-a-vis* judicial tribunals are well settled and they are; (i) no man shall be a judge in his own cause; (ii) justice should not only be done but manifestly and undoubtedly seem to be done. The two maxims yield the result that if a member of a judicial body is subject to a bias (whether financial or other) in favour of, or against, any party to a dispute, or is in such a position that a bias must be assumed to exist, he ought not to take part in the decision or sit on the tribunal; and that any direct pecuniary interest, however small, in the subject-matter of inquiry will disqualify a judge, and any interest, though not pecuniary, will have the same effect, if it is sufficiently substantial to create a reasonable suspicion of bias”. The said principles are equally applicable to other authorities, though they are not courts of justice or judicial tribunals, who have to act judicially in deciding the rights of others, i.e. authorities who are empowered to discharge “quasi-judicial functions”. As observed in the above-mentioned decision, the question would be, whether in the present case Shri Sarwal, who was the Enquiry Officer of the Bank had personal bias against the several workmen. Secondly, it will be necessary to scrutinise the record, and ascertain, whether reasonable opportunity was given to the workmen to show cause, or whether they were denied that right. I have no doubt that the evidence establishes conclusively, that the Enquiry Officer and the Manager had personal bias against the six workmen now in question, on account of their Union activities and on account of their demanding an enquiry under Paragraph 517 of the Sastry Award. This was sufficient to disqualify the Enquiry Officer from proceeding with the enquiry. It ought to be seen, that it was the Enquiry Officer, who issued the charge-sheets. He was the person who conducted the proceedings. He was the person who is said to have recorded the statements of the witnesses, examined on behalf of the management. He was the person, who held the workmen guilty of the charges against them in his letter dated 17th June, 1959. He asked the workmen to show cause against the proposed punishment, and he advised the punishment of dismissal. Ultimately he signed the order of dismissal, dismissing the workmen. The record shows, that he was the person who did every thing for the Bank from start to finish. It is important to note the evidence of Shri Sarwal in this connection. He deposes, that he signed the charge-sheets, that he was the Enquiry Officer in all these cases, and that he was the authority to inflict punishment on all the workmen. There was no-one to represent the Bank at the time of enquiry. None represented the case on behalf of the Bank. He called the witnesses. He put them questions, and took down their statements. The witnesses were selected by him at the enquiry. Therefore, he was not only the Enquiry Officer, and the punishing authority but also the representative of the Bank, who conducted the proceedings, selected witnesses, called them, and recorded their statements. It seems to me, that it was highly undesirable that a person who had been accused of bias, and against whom an enquiry had been demanded should have conducted the proceedings in the above manner. This was a flagrant violation of the law relating to observance of the principles of natural justice, as laid down in the decision referred to above.

118. Yet another objection, that has to be noted is, that Shri Sarwal has stated, that the charge-sheet is based upon his personal knowledge of the allegations. A person, who claimed to have personal knowledge of the allegations was made the officer, who issued the charge-sheet, received explanation, conducted the enquiry, and punished the workmen. I have set out the various documents relating to each of the workmen. Therefrom it can be gathered, that the workmen were stating, that they wanted Shri Sarwal as a witness in the case. This demand is

also referred to in the Enquiry registers. The admission of Shri Sarwal, that he had personal knowledge of the allegations in the charge-sheets, means, that he did import his personal knowledge into the enquiry proceedings, and also into the findings which he gave against the workmen. He became a judge in his own cause. The above criticism is not un-justified, if we pursue the findings themselves. For example, in Ext. M/6, which relates to Shri Rajinder Syal, the findings are in the shape of typed matter at page 25, and the succeeding pages. At page 26 the Enquiry Officer observed as follows:—

“In this connection, it is also necessary to mention the events of the 16th April, 1959, when the first enquiry was held into the charges, jointly with other charges. On that date, the behaviour of Mr. Rajinder Lal Syal, other charges, their representatives and others was such as to make the holding of the enquiry impossible. About 40 persons entered the Enquiry Room, opened all the doors and windows, shouted slogans at the top of their voices, such as “Sarwal Hai Hai”, surrounded the Enquiry Officer completely, shouted at him, thumped on the table, lifted his cigarettes and smoked them, broke water glasses and even went to the extent of stubbing cigarettes on the Enquiry Officer's table. As a breach of peace seemed to be imminent, the Ilaka Magistrate and the D.S.P. had to be called to the office to prevent such an occurrence. In spite of their presence in the outer office, the rowdiness continued. The Ilaka Magistrate wished to contact the Enquiry Officer to enquire about the conditions prevalent, but the Enquiry Officer's telephone was snatched and he was not allowed to receive any call. When the Ilaka Magistrate wished to send a written message to the Enquiry Officer, the doors were barred and the person carrying the message was shouted at and was not allowed to get near the Enquiry Officer. It was with great difficulty that the Enquiry Officer was able to postpone the enquiry and thereafter it was decided to hold the enquiries separately for each charges.”

At page 28 the following observation occurs:—

“During the course of the enquiry itself, Mr. Rajinder Syal has made false allegations against the Enquiry Officer, and the conduct of the enquiry. Not only this, he has published these allegations (under his signatures) which are highly derogatory, untruthful and provocative, in the form of leaflets which have been distributed in large numbers to the customers of the Bank and the general public. These pamphlets which are highly subversive of discipline have also been distributed to members of the staff and put up in the Bank's premises on the Union's notice board.”

There are similar observations in the findings against the other workmen, importing the Enquiry Officer's personal knowledge, and holding the workmen guilty on the basis of such knowledge.

119. With reference to the alleged allegations about the incident on 16th April, 1959, it is necessary to have a close look at the record of enquiry, Ext. M/1. Pages 1—7 relate to the proceedings, that took place from 10.15 A.M. to 1.15 P.M. It is not necessary to refer to these in detail, and it is sufficient to say, that the workmen with their representatives appeared, and they dispersed by 1.15 P.M. The last sentence at page 7 is as follows:—

“The people present thereafter dispersed at 1.15 P.M.”.

Then pages 3 to 12 contain the report about the alleged events that are said to have happened on 16th April, 1959, and set out above. There is no doubt, that all this was written up behind the back of the workmen after they had dispersed, possibly at a later time, if not at a later date. It has been stated by Mr. Sarwal at page 10, that Shri Parvana, one of the representatives of the workmen lifted one of the glasses lying on the table, and threw it at the window, where it broke. It is written, that utter chaos prevailed in the room, and that when he tried to rise in his chair, the pressure against it from people standing just behind him (which he was inclined to think purposely) was so great that he had to remain standing. At page 11 the Enquiry Officer has written as follows:—

“Once again utter confusion prevailed. I was subject to threat, insults, table thumbing, shouts, calling an illegitimate Enquiry Officer, and so on. During the confusion the proceeding book were snatched, and a piece of paper I had put in it containing notes I had made for the



enquiry taken out, and in my endeavour to retrieve it, it was torn by Shri R. L. Syal. There was no chance of conducting an enquiry, or of the representatives, I had ruled against leaving the room. I, therefore, asked the representatives of the charge-sheeted people to let me have their objection to my ruling, which, I stated, I would record."

At page 12 it is written as follows:—

"The Manager who tried to contact me on the telephone to enquire about my welfare, police and the Magistrate, Mr. Gugnani, who also tried to contact me, but unsuccessfully, will be able to corroborate in some measure the facts stated by me. The enquiry room was effectively cut off from the rest of the office by the people charge-sheeted, their representatives and their witnesses, many of whom were, without a doubt, outsiders, whose names I do not know. But, as I have stated earlier, the door was kept opened by the so-called witnesses, and people outside must have heard the pandemonium, that prevailed throughout."

The workmen have contended that the above observations about the alleged happenings on 16th April, 1959 do bear out their contention, that the Enquiry Officer was deeply biased against them, and that the entire proceedings are vitiated. It is urged, that Shri Sarwal made himself a witness against the workmen in respect of the allegations, made behind the back of the workmen, and without his being subject to cross-examination, about the alleged events narrated therein. More important still, this alleged disorderly behaviour of the workmen, and their representatives has been referred to in the findings, bearing the date 17th June, 1959. It has been rightly contended on behalf of the workmen, that the Enquiry Officer imported his own personal knowledge about the alleged incidents of 16th April, 1959, as having a material bearing on the charges of misconduct on the dates mentioned in the charge-sheets. In other words, it has been contended, that the Enquiry Officer came to the conclusion, that the workmen were guilty of the charges against them on the dates specified in the charge-sheets, because they were responsible for the alleged incidents on 16th April, 1959 and other subsequent dates. They were entitled to demand, that he should be examined as a witness in the case. More especially is this so, when, according to him, the allegations in the charge-sheets were based upon his own personal knowledge. The above facts also show bias on the part of the Enquiry Officer, and this vitiates the entire enquiry.

120. Nextly, it is pointed out, that the charge-sheets are vague, and that the particular details of the alleged disorderly behaviour are not disclosed therein. It is also pointed out, that the slogans alleged to have been shouted were not set out. It is important to note, that in the findings, the Enquiry Officer was of the opinion, that slogans highly derogatory to the management were used. It is contended on behalf of the workmen, that the charge-sheets do not set out in detail, the alleged objectionable slogans, and the kind of demonstration, that was resorted to, and that this has been taken advantage of to improve the evidence in respect of the same. A perusal of the statements recorded by the Enquiry Officer will show, that each of the Bank's witnesses has got his own version of the slogans and alleged disorderly behaviour at the time. There is no doubt, that the workmen have suffered prejudiced by reason of the charge-sheets not setting out the charges against the workmen fully and in a detailed manner.

121. The next contention, that has been raised is, that the Enquiry Officer split up the enquiry on 16th April, 1959, without sufficient justification. There is no doubt, that this has operated to the prejudice of the several workmen, and to their disadvantage. As has been contended on their behalf, it has enabled the Enquiry Officer to call witnesses, as he chose, and to select the witnesses, and to examine them in the manner he liked best. It is contended, that the witnesses of the Bank, whose names are found in the Enquiry Register, namely, Shri Roy Chowdhry, Mr. Todd, and Shri Biswas, were examined at different times, and on different occasions, to speak to the same set of facts, that the Enquiry Officer, put leading questions to them, and that this enabled the management to improve upon the evidence, that was given by the witnesses on behalf of the management to the prejudice of the workmen. The contention however on behalf of the management is, that the Enquiry Officer was obliged to split up the enquiry because of the alleged disorderly behaviour of the workmen and their representatives, and their witnesses on the 16th, and as noted in the register, Ext. M/I, in pages 8 to 12. This statement however cannot be taken at its face value. These allegations were made behind the back of the workmen, and

without there being an opportunity to cross-examine, Shri Sarwal about these incidents. On the contrary, it is clear from the evidence of the police witnesses, and the Magistrate, that they were present in the Bank on that day. According to the evidence of Shri Mukhatdhari Singh, MWI, Inspector, Shri Jagdish Raj, was sent to go inside the room, where the enquiry was being held, with instructions to the Enquiry Officer to adjourn the enquiry, but he was not allowed to enter the room. The Bank employees blocked the way. In cross-examination he states, that he does not know if he or Shri Gugnani told Shri Jagdish Raj to tell the Enquiry Officer not to proceed with the enquiry. Neither he nor Shri Gugnani attempted to enter the room. He further says, that there was no complaint, that Shri Sarwal had been illegally confined. The room in which the enquiry was going on, had two doors, one from the counter side, and the other from the official side. He did not see, whether this door was blocked. He did not enter the room by this door. The evidence of Shri Gugnani is, that he tried to send a police officer to the Enquiry Officer, with a message, to suspend the enquiry for the time being, but he was not permitted to go to the Enquiry Officer. He did not take any action at the time. What the Magistrate says, is, that he tried to go to the Enquiry Officer, who was inside a room, that there were demonstrations, and that the demonstrators did not make way for him to go to the Enquiry Officer. It is important to remember, that on 16th April, 1959, there was a strike for a portion of the day. It is one thing to say, that the demonstrators did not move out of the way for the magistrate to go to the Enquiry Officer, and another thing to say, that he and MWI were physically obstructed from going inside the Enquiry Officer's room. It is important to remember in this connection, that Shri Mukhatdhari Singh's evidence is, that he was able to move freely inside the Bank premises. We must also remember the evidence of the Magistrate, that the employees were standing outside the counter, when he told them that they might lay themselves open to the charge of trespass, and that they accepted his advice, and they dispersed. It is also important to note, that the Magistrate has admitted, that he was not present at the enquiry by Shri Sarwal. He saw him surrounded by person. He did not see what went on there. The remarks, in Ext. M/I cannot be taken as receiving support from the evidence of the police and the Magistrate. The explanation, put-forward on behalf of the management is not satisfactory, and cannot be accepted. On the contrary, the contention on behalf of the workmen, that this was deliberately done with a view to make improvements in the Bank's case, cannot be ignored. The Enquiry Officer admits, that the employees did make a representation, that, as the charges were all common, there should be one enquiry as against all and that, if it was split up, the Bank would be improving its case. Apparently he did not heed this request. This also shows bias on the part of the Enquiry Officer.

122. Nextly, all the workmen, with one voice, have sworn, that the statements were not taken in their presence, that the witnesses were not examined in their presence, and that they were not permitted to cross-examine them. I have referred to the letters in which Sarvashri Syal and Devi Pershad complained against the manner in which the enquiry was being conducted, and also about the fact, that they were not permitted to cross-examine the witnesses. There is the admitted fact, that the Enquiry Officer recorded certain proceedings behind the back of the workmen. Mr. Khanna has sworn, that Mr. Sarwal used to take notes on loose sheets of paper. I may refer to the evidence of Mr. Roy Chowdhry, that he gave a statement, but that he does not know what exactly was taken down by the Enquiry Officer. It is important to note, that Exts. M/1-6 were produced for the first time only in this proceeding. It does not appear, that any copies of the proceedings were given to the workmen. I have already referred to the remarks made by Shri Sarwal on the letters given by the workmen, that there was nothing in the Award, which laid a duty on the management, to supply copies of proceedings. I have already referred to the evidence of Shri Syal, that he read out from some pencil notes, which were unsigned. Even the findings, that are contained in the several registers are on loose typed sheets of paper. There is sufficient reason for holding, that these findings were not in existence on 17th June, 1959, the date which they bear. I have referred to the letters, sent on behalf of the workmen soon after the letter dated 17th June, 1959, reached them. There is no doubt, that each one of them wanted a copy of the findings to be given. They pointed out, that, without the copy of the findings, and without knowing what had been found, it was difficult for them to plead extenuating circumstances in mitigation of punishment. If these findings had been in existence on 17th June, 1959, it is improbable, that copies of the same would not have been given to the workmen. Instead, we find Shri Sarwal reading from pencil notes. The workmen protested, that the management had not yet got the finding prepared by the lawyers. Even with reference to the proceeding dated 23rd June,

1959 in the several enquiry registers, we have a typed copy pasted therein. There is every reason for believing, that proceedings in the enquiry registers were not written up as and when the enquiry took place, and that the Enquiry Officer wrote these proceedings at his own convenience and at his own time, subsequently, behind the back of the workmen. It is quite likely, that the witnesses' statements were recorded behind the back of the workmen, and without their being able to cross-examine them. We have the evidence of Shri P. L. Sval, WW7, who was the representative of Sarvashri Devi Pershad, Sval, Malhotra and Chakrawarti, that no statements of any of the Bank's witnesses, except that of Shri Roy Chowdhry, was recorded in the presence of the workmen, or their representatives. He was not permitted to cross-examine Shri Roy Chowdhry. The workmen were not permitted to cross-examine witnesses. Even Shri Roy Chowdhry was examined in the presence of the workmen, and their representatives, only in the case of one employee, and not in the case of the other employees. The Enquiry Officer did not read out what he recorded in spite of requests. No copies were given of what he wrote, in spite of request. This was so on all the dates, on which the enquiry took place. He would not permit them to sign in the enquiry registers, in spite of requests, though he cannot recollect on what all dates he was not so permitted. WW7 also deposes, that whenever he was permitted, he signed the register. The Enquiry Officer says, that on 28th June, 1959 the workmen attended the enquiry that they asked, that the whole proceedings should be read out, but that he did not read out the proceedings. The above circumstances also vitiate the enquiry.

123. Another contention, that has been raised is, that a Notary Public, Shri Suraj Parkash, was present at different times of the enquiry. I have referred to the letters of the workmen, wherein objection was being taken repeatedly to the presence of this person at the time of enquiry. The workmen were objecting to his presence, and also the presence of Shri Roy Chowdhry. The workmen were accusing the management of taking advice and guidance from lawyers. It is stated before me in the course of arguments, that Shri Suraj Parkash is a practicing Advocate, and that Shri Roy Chowdhry has legal qualifications, being a Barrister at law and having been the Assistant Registrar, Labour Appellate Tribunal, for some time. The workmen were protesting that the Enquiry Officer was taking their assistance and guidance, and they conveyed these protests in the form of various letters. In this connection it is necessary to refer to the evidence of Shri P. L. Sval, who was the representative of Sarvashri Rajinder Lal Sval, Malhotra, Devi Pershad, and P. L. Chakrawarti, that he objected to Shri Suraj Parkash and Shri Roy Chowdhry assisting the Enquiry Officer. He requested Shri Sarwal, that the workmen should be permitted to bring a Notary Public on their behalf, but this was declined.

124. Nextly the workmen also took objection, that the Notary Public behaved in an objectionable manner. We have the evidence of WW4 Shri Narinder Singh who is a teacher in a Municipal Corporation School. According to his evidence, he was residing in Shakti Nagar last year upto November, 1959. Shri Lajpat Rai Malhotra was his next door neighbour. One day in the second week of June in 1959, when the schools were closed, there was noise from Shri Malhotra's house. He was attracted by the noise, and went to the room. Shri Malhotra was there. Two persons, who looked like Goondas, were abusing him, and threatening him, that they would set him right. On account of the noise other neighbours also gathered there. But for their being present at the time, Shri Malhotra would have been beaten. On seeing the persons present the Goondas came out and talked to a man, who was in a car, which was in the Chowk. Those men threw a letter in the house of Shri Malhotra. A record of what happened was prepared then, and Ext. W/545 is the same. The witness says, that it was typed on his brother's type-writer. This was given to Shri Malhotra, to do what he pleased with it. The witness explains, that Shri Malhotra was just a neighbour, and not even a friend. WW3 is Shri K. L. Goel, who is Librarian in the Office of the Registrar of Newspapers for India. He deposes, that he lives in Shakti Nagar, and his neighbour is Shri Malhotra. He gives similar evidence as WW3. This witness says, that he was told, that the name of the man in the car, to whom the Goondas went, was Shri Suraj Parkash, an Advocate. He has signed Ext. W/545. Shri Malhotra was advised to report the matter to the police.

125. On the other side, we have the evidence of Shri Suraj Parkash, MW 4. He says, that he does not know of any reports against him by the employees. He never used to go to their houses, and harass them and their family members. He never went with any bad characters to the employees' houses. In my opinion, the evidence on behalf of the employees is nearer the truth. The witnesses, WWS. 3 and 4, gave their evidence in a straightforward manner, and they are

not shown to be interested in any manner in Shri Malhotra and I believe them. Comment has however been made on the fact, that both WWS. 3 and 4, claim to have put the date in the document. This may be due to a *bona fide* mistake, and want of recollection, and therefrom it cannot be contended, that their evidence is untrue, or that the document has been manufactured for the occasion. On the other hand, it cannot be over-looked, that it was no part of the duty of a Notary Public to assist in a managerial enquiry, and it is rather surprising, that a Notary Public's services were engaged in a domestic enquiry. Shri Suraj Parkash has admitted, that he was paid by the Bank at the rate of Rs. 150 per day. He has been the Bank's Notary Public from 1958. I am not able to say, that he is such a disinterested witness as he is made out to be. In fact, Shri Malhotra himself complained in his letter, which I have already referred to above, about this incident. It cannot be said, that this incident was invented for the purpose of this case. On the contrary, a number of communications were addressed to the management about the use of undesirable elements against the concerned workmen, namely Exts. W/15, 69, 127, 311. It is in the evidence of the workmen, that undesirable elements were found moving about also in the Bank premises. The evidence of Shri Sarwal is, that the employees wrote to him, complaining against the Notary Public, and his conduct. He could not take any action. He was a public official. He admits, that another Notary Public could have been engaged. He also admits, that the Bank could have asked Shri Suraj Parkash not to come, but he continued right through the enquiry. When his attention is drawn to Ext. W/138, a complaint of intimidation by Mr. Kapoor, he says that he did not take any action as he did not believe it and it was upto the concerned workman to take such steps, as were available to him. Shri Sarwal says, that he took the Notary Public's assistance to have letters delivered. I do not believe, that the assistance stopped there. I have no doubt, that, as charged by the workmen, he was giving guidance and assistance to Shri Sarwal in the Enquiry. Shri Suraj Parkash says, that a Notary's functions are to attest, verify, and certify documents, and discharge other functions under the Act. He can be asked to attest/delivery of letters, as per the Act. Nothing has been cited before me to show, that it is a part of the Notary Public's duty to take part in proceedings before domestic tribunals. I do not believe that it was his function to remain with the Enquiry Officer in a domestic enquiry, and guide him and assist him in the matter of the said enquiry. Shri Suraj Parkash admits, that the workmen did raise objection to his presence. He said, that, if the Enquiry Officer did not want him, he would go out. Shri Sarwal states, that the employees requested, that they might be permitted to bring a lawyer. They wanted him to permit another Notary Public to be present at the enquiry proceeding, but he did not give permission. Exts. W/63 and 64 have also been relied upon as the letters written in this connection. It seems to me, that this conduct of the Enquiry Officer is also an indication of bias. If he thought a Notary Public was necessary in the interests of the management, it was only fair and reasonable, that the employees also should have been permitted to have their Notary Public, especially when complaints had been laid against the conduct of Mr. Suraj Parkash, as proved by Ext. W/645, and the evidence of WWS 3 and 4. I do not attach any weight to the certificates given at the end of the proceedings in Exts. M/1-6, that the proceedings took place in the manner recorded therein, on the several dates. Shri Suraj Parkash was prepared to put his seal and initials to anything which Shri Sarwal wrote, and to anything that was required by the Enquiry Officer and in whatever manner he was required to do, so especially when he was in the pay of the Bank. The fact, that Shri Suraj Parkash was associated with the enquiry, is also an indication of bad faith. I do not believe his evidence, or the certificate attached in the enquiry proceedings, or the evidence of Shri Sarwal in this connection, about the manner in which the enquiry was conducted. I prefer to believe the evidence on behalf of the workmen. The above circumstances also show, that the enquiry was neither fair, nor impartial.

126. Yet another circumstance arises with reference to the events that took place from 17th June, 1959. As already pointed out on 17th June, 1959, the workmen were informed, that the Enquiry Officer had come to the conclusion, that the charges were proved. There are typed findings, as representing the findings arrived at by the Enquiry Officer on that date. In Ext. M/1 there are proceedings dated 22nd June, 1959, and these are signed by Shri Parvana. But it is important to remember the evidence on behalf of the workmen that there were blank spaces in the registers. The signature of Mr. Parvana on 22nd June, 1959, proves only that what was written in the hand of Mr. Sarwal on 22nd June, 1959, above the signature was in existence. It does not necessarily prove that the findings were in existence or that the loose sheets had been pasted in the books by that time. The important point to be noticed is, that copies of these findings were not supplied to the workmen in spite of their request. They were entitled to

copies of the findings, especially when they had been called upon to put-forth circumstances in mitigation of punishment. I am convinced, and I believe, that the typed findings now found in the enquiry books, were not in existence on 17th June, 1959, or on subsequent dates, and that at best it can be said, that they were in existence only on 22nd June, 1959. Possibly they were prepared by that time with legal advice. This also is a circumstance to be taken into account, as showing want of good faith. This means, that the Enquiry Officer was prepared to hold, and held the workman guilty of the charges against them, without any findings in respect thereof, on 17th June, 1959.

127. The next circumstance to be noticed is, that in the findings it has been stated, that the various workmen—had been given an opportunity of a hearing with regard to the nature of the punishment, and that the workmen were directed to appear before the Enquiry Officer on 22nd June, 1959. It is important to note, that there is nothing in the findings about the nature of the proposed punishment. It will be noticed, that in the Bank Award in Paragraph 521 there are different kinds of punishment to be imposed on the workmen. There is distinction between major mis-conduct and minor mis-conduct. Even for major mis-conduct, one of the forms of punishment proposed is the entry of adverse remarks. Holding of meetings in the Bank premises without authorisation is treated as minor mis-conduct, in Para 521(6)(h) of the Bank Award. What is important to note is, that, according to the Sasry Award, it was imperative, that the proposed punishment should be communicated to the workmen, so that they may show cause against the punishment, and also plead mitigating circumstances in respect of the same. The fact, that the nature of the proposed punishment is not disclosed in the letter dated 17th June, 1959, is a serious omission and is against the provisions of the Award. In such circumstances, it was not possible for the employees to plead anything in mitigation of the proposed punishment, when the nature of the punishment was not disclosed.

128. Next we come to the events of 23rd. I have already referred to the evidence of Shri Sarwal, that he read something from pencil notes, on which he is not able to lay his hands now. The contention on behalf of the workmen is, that Shri Sarwal pronounced the punishment on 23rd June, 1959. For example if we take Ext. M/1, the record of enquiry against Shri Lajpat Rai Malhotra, after the entries on 22nd June, 1959, there is an entry, the heading of which is "punishment". It is relevant to state, that at the end of the note at page 48, the following sentence occurs:—

"I have no option, but to consider, that he is unfit for retention in the Bank's service any longer, and that he should be dismissed with immediate effect."

On 23rd there is a typed memo., and the gist of it is, that there was no mitigation or extenuating circumstance in the case of Shri Malhotra, that he along with the other "charges" walked out of the enquiry room, and shouted slogans, and that he advised Shri Parvana, that no adjournment could be given. But there is a note again on 2nd July, 1959, that the Enquiry Officer advised Shri Malhotra and Shri Parvana, that he would communicate his decision regarding punishment in writing at 5 P.M., or as soon thereafter as possible. I have already referred to the letters, wherein the workmen wrote, that they reported themselves for duty on 27th June, 1959. In Paragraph 521(9) of the Award it is mentioned, that if it was decided to take any disciplinary action against an employee, such decision should be communicated within 3 days. The contention on behalf of the workmen is, that, because the order of the management, dismissing them from service, was not communicated within 3 days of 23rd June, 1959, they reported themselves for duty on 27th June, 1959. I have no doubt at all, that in fact Shri Sarwal pronounced the punishment of dismissal on 23rd June, 1959. The management however did not comply with the requirements of Paragraph 521(9), and this prompted the workman to send their letters dated 27th June, 1959. It is perfectly clear, that, in view of this letter, the Bank thought up of an excuse, and sent a letter dated 24/27th June, 1959, in which it was made to appear, that Shri Parvana had asked for an adjournment on 23rd June, 1959, and that, therefore, the matter was adjourned to a subsequent date. This was merely an excuse to enable the Bank to get-over their omission to observe the directions in Paragraph 521(9). This was done in order to make it appear, that the actual order of dismissal was passed only on 2nd July, 1959, and that it was communicated in accordance with the terms of Paragraph 521(9). It is not without significance, that the letters bear the date 24th, though actually they were not despatched earlier than 27th. This very fact gives an index as to the truth in the matter. It has been contended, not without force on

behalf of the workman, that the typed matter, which has been put in at page 48 in Ext. M/I and similar slips pasted in the enquiry registers, were all pasted with this object of getting-over the objections based upon the non-observance of Paragraph 521(9). It is important to note, that in all the registers, there are paragraph advising about the punishment as contained in page 48 of Ext. M/I. The workmen's contention also receives support from Ext. W/336, which is a letter dated 29th June, 1959, addressed by the London Office to the General Secretary, National and Grindlays Bank Employees' Union, Bombay. There is reference therein to the receipt of a telegram dated 27th June, 1959, from the Union, reading as under:—

"General-body National and Grindlays Bank Employees' Union meeting today expressed grave concern over the arbitrary dismissal of six Delhi Union leaders (Stop) Members determined to continue strike until you advise Mr. Brown to withdraw dismissal orders, and re-ins'tate victimised leaders."

The London Office stated in their letter, that the Union was wrong in assuming, that there was arbitrary dismissal of the six Delhi Union leaders, that there were continued acts of indiscipline on the part of certain members of the staff of the Delhi Branch, and that this left them with no option, except to take disciplinary action. Then the following sentence occurs:—

"The sentence of dismissal pronounced against the six employees was not arbitrary action on the part of our Manager, but was taken only after the conclusion of the constitutional procedure provided by the Bank Award. The employees in question were the ring leaders of the insubordinate disturbances at the branch and the fact that some or all of them may have been Union leaders had no relevance whatever to the matter."

This document proves, that in fact a sentence of dismissal had been pronounced by the manager even prior to 29th June, 1959. This makes it clear, that it was pronounced on 23rd June, 1959, in spite of whatever Shri Sarwal may say to the contrary. I have no doubt, that in fact that Enquiry Officer pronounced the sentence of dismissal against all the workmen on 23rd June, 1959. The further proceedings were all manufactured with a view to get-over the omission to comply with the provisions of Paragraph 521(9) of the Bank Award. It is not without significance, that the Notary Public put his signature and seal to all the proceedings even subsequent to 23rd June, 1959, after the pasting of the typed slips of that date. There is no doubt at all, that the enquiry was concluded on the 23rd after the Enquiry Officer pronounced the punishment. The proceedings, as written by the Enquiry Officer, on 23rd June, 1959, in the typed slips of paper and on 2nd July, 1959, do not represent a true and correct state of affairs. The workmen have pointed out, that the Enquiry Officer became *furtus officio* on pronouncement of punishment on 23rd June, 1959, and that he could not function after that date. The above circumstance, as appearing from the proceedings registers is also indicative of want of good faith.

129. Another circumstance, that has been urged on behalf of the workmen is, that towards the later stages of the enquiry, they did not have adequate notice of the same, and that they were suddenly confronted with the letter dated 17th June, 1959, in which the Enquiry Officer informed them, that he had come to the conclusion, that they were all guilty of the charges against them, and that they must plead circumstances in mitigation of punishment.

130. First, taking the case of Shri Devi Pershad, Ext. M/2 is the Enquiry Register. It will be seen there from that the enquiry stood adjourned first to 6th May, 1959. There is a note in Ext. M/2 on 12th May, 1959, at page 24, that the Enquiry Officer was continuing the enquiry *ex-parte*. Then it purports to contain the statement of Shri Biswas. There is a note by Shri Biswas on 12th May, 1959, at 4.10 p.m., that neither Mr. Devi Pershad nor his representative was seen in the Enquiry room. Therefore the Enquiry Officer purported to record the evidence of Mr. Todd. There is a note therein, that on 12th May the Enquiry Officer had refused permission to cross-examine Shri Roy Chowdhry, that the allegations therein had been refuted, that the Enquiry Officer was prepared to give another opportunity to cross-examine the Bank's witnesses, that a copy of the letter dated 13th May, 1959, was sought to be delivered to Shri Devi Pershad by hand, but that he refused to accept the same. Ext. M/31 has been produced as the copy of the letter of the Enquiry Officer dated 13th May,

1959, and there in it is mentioned, that the enquiry against Shri Devi Pershad was adjourned to 16th May, 1959. There is a note therein as follows:—

“Refused to take copy of this letter, and asked to send by post.”

It is explained, that this was made by Shri Madan Gopal Mehra, Ext. M/34 is a registered acknowledgement, and it shows that it was received by Shri P. L. Syal for Shri Devi Pershad on 18th May, 1959. Ext. M/33 is a letter dated 19th May, 1959, by the Manager to the Postal Department, to intimate on what date the letter had been delivered. The reply was, that the delivery was on 18th May, 1959, Ext. M/39 is the letter of the Bank to the Post-Master, requesting the reason, why there was delay in delivery. Ext. M/42 is a letter addressed to the Enquiry Officer by Shri Devi Pershad, dated 21st May, 1959, intimating, that the letter reached him on 18th May, 1959, and that another date should be given. Shri Devi Pershad complained, that the Enquiry Officer was not answering the objections raised. Ext. M/46 purports to be another letter dated 25th May, 1959, fixing the date of enquiry as 29th May, 1959, at 10.30 A.M. There is an endorsement thereon 25th June, 1959 as follows:—

“Copy of this letter served on Shri Devi Pershad in the office on 28th May, 1959. Refused to accept.”

This purports to have been made by Shri Madan Gopal Mehra. It is also attested by a witness. But the important fact to be noticed is, that the endorsement of Shri Madan Gopal Mehra and the attestation of the witness are both dated 29th May, 1959. It is stated that this letter was sent also by registered post. The letter is Ext. M/50, and the endorsement therein is “refused”, and two dates are given 30th May and 2nd June, 1959. If we take the enquiry proceedings, we find that on 29th May, 1959, the Enquiry Officer endorsed that there was no appearance for the workman or his representative. This is followed up by the typed sheets of the findings from page 33 onwards. Ext. M/51 is the letter of 2nd June, 1959, written by Shri Devi Pershad, requesting attention of the Enquiry Officer to his letter of 21st May, 1959. Another letter was sent on 4th June, 1959, to the effect, that no registered letter had been delivered by the Postman to his mother, and that his mother had given the address of the Union office.

131. From the evidence, above referred to, it is clear, that the Enquiry Officer proceeded *ex-parte* against Shri Devi Pershad on 16th May 1959, and on 29th May 1959, on the assumption, that he had refused to accept the letters, fixing the dates of enquiry. It is important to note, that Shri Madan Gopal Mehra, who is said to have tendered the letters in question to Shri Devi Pershad was not examined by the Enquiry Officer in support of the alleged refusal to take the letter. Neither is there the evidence of the person, who is said to have attested the refusal as endorsed on Ext. M/46. The evidence of Shri Devi Pershad is, that he sent several letters, requesting for permission to cross-examine Shri Roy Chowdhry, but the Enquiry Officer did not fix any date. He was not permitted to cross-examine Shri Roy Chowdhry. Mr. Todd and Shri Biswas were not examined in his presence. Suddenly he received a letter, asking him to show cause against the punishment. He never refused any letters inside the Bank premises. He says, with reference to Ext. M/50, that he cannot remember, the date when this letter was brought to his house. His letter, Ext. M/52 was written to the Manager. His mother told him on 3rd June, that the Postman had refused to deliver a registered letter to her. He denies, that he refused the letter. Ext. M/69, and states that he does not know Urdu or what endorsement had been written on the letter. In the absence of the evidence of the persons who are alleged to have made the endorsement on Ext. M/46, it is not possible to believe, that Shri Devi Pershad refused the letter. It is also not easy to understand as to how, when he was under suspension, he went to the Bank on 28th May 1959. The explanation that he went to the Bank for subsistence allowance cannot be easily believed. It is not without significance, that, even the endorsement, referred to above is dated 29th May 1959, and not 28th May 1959, on which date the letter is said to have been tendered. I am unable to hold, that Shri Devi Pershad had notice of the enquiry on 16th May 1959, or 29th May 1959. The Enquiry Officer was not entitled to come to the conclusion, on the evidence recorded behind the back of the workman suddenly on 17th June 1959, that the charges had been proved against the workman without his being given an opportunity in his defence. The Enquiry Officer proceeded, even without caring to ascertain, whether in fact the workman had been served with notice or not. Moreover, he was not entitled to rely upon the alleged endorsements without the persons, who had made the same being examined.

132. With reference to Shri Inder Narain Kapoor, the enquiry register Ext. M/3, shows, that the evidence of Shri Biswas, Mr. Todd, and Shri Roy was all recorded on 20th May 1959, in the absence of the workman. The next date is 30th May 1959, to the effect, that neither the workman, nor his representative was present. There is a note on 20th May 1959, that Sarvashri Parvana and Inder Narain Kapoor shouted at the Enquiry Officer and went away, and then we have a record of what the witnesses are said to have deposed. On behalf of the workman it is particularly pointed out, that even at page 1, there are additions made by the Enquiry Officer. There does not seem to be any doubt, that at the bottom of the page something seems to have been written up later. I have already referred to the letter written by Shri Inder Narain Kapoor on 20th May, i.e. Ext. M/102, and therein he stated, that he wanted to produce the Enquiry Officer, the Manager, and Shri Roy Chowdhry as his witnesses, and that otherwise his evidence would be shut out. Ext. M/103 is a copy of the telegram, that was sent to Mr. Brown as Appellate Authority. Therein it was written, that the Enquiry Officer was receiving instructions from the Manager, that he had left blank spaces to write something behind his back, and that the enquiry was a farce and subterfuge. This complaint of Shri Kapoor, that there had been blank spaces left, so that the Enquiry Officer might fill them later, receives support from the writing at the bottom of page 1, and the top of page 2 of the enquiry register for example. Another telegram was sent, that the Enquiry Officer was refusing to record the objection raised by them, i.e. Ext. M/104. Ext. M/105 is a letter dated the 23rd May 1959.

Ext. M/112 is a letter of 25th May 1959, wherein the Enquiry Officer wrote, that on the 29th Mr. Kapoor and his representative had walked out on him, and that, however, as a special case, the enquiry was fixed on 30th May 1959. This contains an endorsement as follows:—

“This letter was presented by me to Mr. Inder Narain Kapoor in the office on the 26th May, 1959, but he refused to accept.”

This purports to be signed by Shri Madan Gopal Mehra. Ext. M/113, is a letter of Shri Kapoor dated 3rd June 1959, intimating, that the letter sent by registered post was received by him on 2nd June 1959. Ext. M/109 is the postal acknowledgment, showing, that the registered letter was received on 2nd June 1959. Ext. M/114 is the letter dated 15th June 1959 by the workmen, taking objection to the enquiry by the Enquiry Officer, and this was followed up by Ext. M/115. In the enquiry register, Ext. M/3, after 30th May 1959, we have the findings dated 17th June 1959. In this case also we have to depend upon the alleged endorsement made by Shri Madan Gopal Mehra, who was not examined before the Enquiry Officer, or here. The evidence of Shri Kapoor is, that Ext. M/109 is signed by Shri P. L. Chakrawarti. He deposes, that he, or his representative never refused any letter sent by post, or Peon, or Notary Public. With reference to Ext. M/112 he deposes, that it was not tendered to him by Shri Madan Gopal Mehra at all. He never got any such letter like Ext. M/128, and he never refused it. In this case also the procedure followed by the Enquiry Officer is open to objection, and he did not care to ascertain, whether in fact the notice fixing the date of enquiry had been served on the workman, or not before he actually closed it, and proceeded to give his findings.

133. Next, taking the case of Shri P. L. Chakrawarti, Ext. M/4 is the enquiry register. That shows, that Shri Chowdhry was examined on 13th May 1959. There is a note at page 6, that at 4-07 p.m., Shri Chakrawarti was given an opportunity to phone Shri Puri, as that gentleman had not arrived. The Enquiry Officer advised Shri Chakrawarti, that the objection raised had been disallowed by him, and that he must proceed with the enquiry. Thereupon Shri Chowdhry was examined. Shri H. L. Puri was present at the time. Ext. M/4B shows, that Shri Puri objected, that the witness should not be permitted to speak about events subsequent to the dates mentioned in the charge-sheet. The Enquiry Officer advised Shri Puri, that in coming to the findings, he would not take subsequent events into consideration. There is a note, that the next date of enquiry was fixed on 23rd May 1959, that Shri Chakrawarti and his representative, Shri P. L. Sval left the proceedings, and that, therefore, he had no option except to proceed *ex-parte*. There is also a note, that Shri Chakrawarti called the Enquiry Officer a liar. The Enquiry Officer called upon Mr. Todd and Shri Biswas to give evidence. The proceedings were apparently continued on 25th May 1959, and there is a note, that Shri Chakrawarti had been asked to be present at the enquiry by letter dated 25th May 1959. In Ext. M/228 dated 23rd May 1959, Shri Chakrawarti lodged a protest, that the Enquiry Officer had refused permission to allow Shri P. L. Sval to represent him, because on the previous occasion he had been represented by Shri H. L. Puri, and that he was also astonished to



see, that another register had been opened for the enquiry proceedings. Ext. M/231 is a letter dated 25th May 1959 of the Enquiry Officer addressed to Shri Chakrawarti, acknowledging receipt of the letter of the 23rd. The Enquiry Officer wrote that he did not disallow Shri Sval to represent the workman, when they walked out on him. The Enquiry Officer wrote, that as a special case he had fixed 29th May 1959, on which date Shri Chakrawarti might cross-examine the Bank's witnesses, and also produce such evidence as he desired to adduce. There is an endorsement on the Bank's letter as follows:—

"This letter was presented by me to Shri P. L. Chakrawarti on 26th May 1959 in the office, but he refused to accept."

This purports to be signed by Shri Madan Gopal Mehra under date 26th May 1959. Obviously, this letter also was sent by registered post. The acknowledgment therefore is Ext. M/235, but it shows, that it was received on 1st June 1959 at 12-45 P.M. By Ext. M/236 dated 29th May 1959, the Enquiry Officer fixed the next date of hearing as 2nd June 1959. There is an endorsement thereon as follows:—

"The original of this letter served on Shri P. L. Chakrawarti in office premises at 3-20 P.M., on 29th May 1959. Refused to accept in office, and asked to send by post at his residential address at Ghaziabad."

This purports to be signed by Shri Madan Gopal Mehra under date 25th May 1959. There is the name of another person as witness on 25th May 1959. It may be noticed, that the first portion of the endorsement is in a writing and ink different from the second portion of the endorsement. Ext. M/242 is a letter dated 4th June 1959, intimating Shri Chakrawarti, that the date of enquiry was fixed on 10th June 1959. The registered acknowledgment, Ext. M/247, shows, that it was received by the addressee on 12th June 1959. Exts. M/248, 249 and 250 have been produced to show, that a telegram also was sent. Ext. M/252 is a letter of the Notary Public, that the letter addressed to Shri Chakrawarti at Ghaziabad was delivered to his wife on 6th June 1959 at 10 A.M. Then we have the letter dated 17th June 1959. Ext. M/253 is the letter dated 10th June 1959, wherein Shri Chakrawarti objected to the presence of Shri Suraj Parkash. In the proceedings on 10th June 1959, there is a note, that Sarvashri P. L. Sval and Chakrawarti refused to participate in the enquiry, because of the presence of the Notary Public. Ext. M/227 is a letter that was written to the Enquiry Officer, wherein it is stated, that with reference to the proceedings on 13th May 1959, Shri Chakrawarti took objection about his recording of the evidence, that the Enquiry Officer started recording the statement of Shri Roy Chowdhry himself, with Shri Roy Chowdhry saying something, and then, after recording something, the Enquiry Officer read out a portion of it to Shri Roy Chowdhry as if he had intended to say the same, that Shri Roy Chowdhry wanted to say something, but that the Enquiry Officer called him a fool, and asked him to shut up, and that (Chakrawarti) lodged a strong protest against the same.

134. Next taking the case of Shri P. K. Khanna, the enquiry register, Ext. M/5, contains records of certain proceedings on 18th May 1959. On that day, Shri Khanna was represented by Shri Puri, and several objections were taken. It shows, that Shri Chowdhry was examined on that day, and that he was cross-examined also. Next we have proceedings on 25th May 1959. There is a note, that the workman and his representative left the room, without taking part in the proceedings, and that the Enquiry Officer had, therefore, no option but to continue the enquiry *ex-parte*. Mr. Todd and Shri Biswas were examined on 25th May 1959. This was followed up by the findings dated 17th June 1959. The evidence of Shri Khanna, is, that he attended the enquiry on 25th May 1959. He asked Shri P. L. Sval to represent him, because Shri Puri had a heart attack. Shri Sarwal said, that he could not change his representative. Shri Sarwal adjourned the hearing, but did not intimate the date. No date was given, and suddenly he got the intimation about the finding, that he was guilty. In Ext M/6 it is written, that Shri Rajinder Lal and Khanna appeared at the time of enquiry, that they refused to participate in the enquiry, and that therefore, the Enquiry Officer had no option except to proceed *ex-parte* with the enquiry.

135. Next taking the case of Shri Malhotra, the enquiry register is Ext. M/I. It shows, that, after certain adjournments, the case stood adjourned to 15th June 1959. On the 15th there is a note therein, that Shri Lajpat Rai and Shri P. L. Sval came in, and handed him a letter, that Shri Lajpat Rai requested to be permitted to be allowed to be defended by a lawyer, at the cost of the Bank, that this was refused, and that then both he and Shri P. L. Sval walked out of the enquiry room at 11-42 A.M., and that the Enquiry Officer had no option, but to

continue the enquiry *ex-parte*. Thereupon the Enquiry Officer purported to record the evidence of Shri Roy Chowdhry, Shri Biswas, and Mr. Todd. This was followed up by the proceedings on 17th June 1959. It is important to note, that in the enquiry register on 7th May 1959 the Enquiry Officer fixed the date of hearing on 19th May 1959. After the adjournment the Enquiry Officer recorded certain statements of one Shri Shiv Charan, and Shri Chandgi Ram at 12-15 p.m. Shri Shiv Charan is said to have stated, that Sarvashri Puri and Syal pushed their way into the Enquiry Officer's room in spite of there being no orders from the Enquiry Officer to go into the room, that they opened the door of the room, and that this had been read over to Shri Shiv Charan, Shri Chandgi Ram is also stated to have made a statement to similar effect. It is pointed out on behalf of the workman, that Ext. M/I, contains a number of blank pages and corrections and that the Enquiry Officer recorded statements about events that took place subsequent to the dates mentioned in the charge-sheets. Shri Malhotra deposes that he never refused Ext. M/172. He got Ext. M/167 through the Notary Public, when he was on his sick bed. He did not make any complaint to the police about the Notary Public, because his Union asked him not to lodge a complaint. It cannot be contended, that the workman and his representative were at fault in demanding the withdrawal of Shri Suraj Parkash, in view of the incident, that had taken place as recorded in Ext. W/545.

130. With reference to Shri Rajinder Syal, Ext. M/6 is the enquiry register. It shows, that on 26th May Shri Roy Chowdhry was examined. The enquiry was resumed on 8th June 1959 at 3 p.m. In the note, Ext. M/6A, it is stated, that Shri P. L. Syal, the representative, was directed to continue the cross-examination of Shri Roy Chowdhry, and confine himself to the subject-matter of the charge-sheet. The next date of enquiry is 9th June 1959. It is mentioned therein, that Shri Parvana raised objection, regarding the presence of Shri Suraj Parkash. The Enquiry Officer intimated, that Shri Suraj Parkash was present at his request as an observer to see, that the enquiry was conducted in a peaceful manner, and that no disturbances took place. Shri Parvana stated, that they would go for half an hour, and wait and see, whether the Notary-Public went out, and that, if he did not go out, the consequences would be the responsibility of the Enquiry Officer. At this stage the following words occur.

"Further cross-examination of Shri Chowdhry declined".

There is no doubt, that these words were interpolated later in an entirely different ink at page 18. Then it is mentioned, that the Enquiry Officer warned them, that, if they walked out, the enquiry would be conducted *ex-parte*. Shri Parvana and Rajinder Syal left the room at 11 O'clock, and the Enquiry Officer says, that he had no option except to proceed with the enquiry. Then Shri Roy Chowdhry's statement was recorded further. Then there is a record of the statements of Shri Biswas and Mr. Todd. This was followed up by the proceedings on 17th June 1959.

137. The contention on behalf of the workmen is that the Enquiry Proceedings themselves establish that no reasonable opportunity was given to them to defend themselves, what is reasonable opportunity, is laid down in Khem Chand's case (1959 1 LLJ 167). In my opinion, the workmen were not given reasonable opportunity to defend themselves.

138. The next contention, that has been urged on behalf of the workmen is, that in more places than one, the Enquiry Officer has recorded the evidence in the third person and there is no doubt, that this is so. For example, this can be seen from page 35 of Ext. M/I. Then we have at page 36 the alleged statement of Shri Biswas, and the opening words are, "Mr. Biswas stated". In page 38 it is mentioned, that "Mr. Todd stated". Comment is also made on the fact, that Shri Roy Chowdhry's signature was interpolated at page 33, and that this conclusion is inevitable in view of the manner in which Shri Chowdhry's signature appears. There is no doubt, that this cramped, signature was apparently put in later. In the other enquiry registers also the statements have been recorded in a similar manner. Thus for example in the enquiry register, Ext. M/3, we find similar narration about the evidence of Shri Biswas and down in the third person at pages 15-19. The statement was recorded in the Mr. Todd, at pages 6 and 7. Likewise in Ext. M/4 we have the evidence taken down in the third person at pages 15-19. The statement was recorded in the same way, in the case of Shri Prem Kishan Khanna, as can be seen from Ext. M/5, pages 14 to 20, and in the case of Shri Rajinder Lal Syal, in Ext. M/6, at pages 19 to 23.

139. The contention on behalf of the workmen is, that this manner of recording the statements is highly objectionable, and that this has also prejudiced

them. Granting, that the enquiry by a domestic tribunals is not of the same nature, as that in a criminal case, and that the Evidence Act has no application strictly to the enquiries conducted by tribunals, even though they may be quasi-judicial in character, still the law requires, that such tribunals should observe the rules of natural justice in the conduct of the enquiry. The rules of natural justice require, that a party should have the opportunity of adducing all relevant evidence, on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given an opportunity of cross-examining witnesses examined by the opposite party, and that no materials should be relied upon against him, without his being given an opportunity of explaining them. If these rules are satisfied, then the enquiry is not open to attack on the ground, that the procedure laid down in the Evidence Act, for taking evidence, was not strictly followed. This was the view taken by the Supreme Court in *New Prakash Transport Company (1957 S.C.R. 98)*. On the facts of the present the workmen have been prejudiced by the manner, in which the Enquiry Officer took down the statements. When they have been recorded in the third person, it is not possible to hold, that the statements ascribed to the witnesses were in fact the statements made by them. In my opinion, the rules of natural justice require, that the statements of the witnesses, examined against the delinquents should be in their own language, otherwise objection might be taken, as rightly too, that the statement written down is not that of the witness making the statement, but that of the Enquiry Officer. In other words, the statement becomes not of the witness, but of the Enquiry Officer. When a statement is not in the first person, it would be scarcely appropriate to call it a statement of the witness himself. If the statement of the witness is not taken as a whole, and as far as possible in the words of the person examined, there is eminent danger, that statements favourable to the accused persons are omitted. An abstract of the statement of a witness cannot be deemed to be evidence against the accused person. In view of the above circumstances, the criticism has been rightly put forward, that what is relied upon against the workmen in question is not what the witnesses of the Bank stated against them, but what Shri Sarwal stated, was stated by them, and that this is against the principles of natural justice.

140. Again, it is pointed out, that, though, according to the management, Shri Davi Pershad had refused to receive a letter tendered by Shri Madan Gopal Mehra, or Shri Monohar Lal Sharma, on the 28th or on the 29th, i.e. Ext. M/46 dated 25th May, 1959, there is no mention about the same at page 32 of Ext. M/2.

141. In the case of Shri Prem Kishan Khanna, according to Ext. M/300 dated 29th May, 1959, the Enquiry Officer adjourned the enquiry from 29th May to 6th June, 1959. If we refer to Ext. M/5, there are proceedings dated 25th May, 1959 from page 12 to 20. The enquiry is said to have been closed at 12.45 p.m. on 25th May, 1959. The rest of the page is blank. In page 31 we have the typed findings. There is nothing in the enquiry register about the alleged enquiry on 6th June, 1959.

142. With reference to Shri Lajpat Rai Malhotra, in Ext. M/I, it is pointed out, that at page 32 it was written in the proceedings on 12th May, 1959, that the Enquiry Officer had adjourned the Enquiry as a special case, and given the next date as 15th June at 10.30 A.M. This is found at page 32, but thereafter something is written about Shri Lajpat Rai. One of the statements therein is, that the Enquiry Officer had asked Shri Malhotra, if Shri Suraj Prakash had threatened him, when he went to deliver a letter to Shri Lajpat Rai on 2nd June, and that Shri Lajpat Rai had stated "no", and informed Shri Malhotra that the allegations were one sided. At the last it is mentioned, that Shri Lajpat Rai had then signed a note, stating, that he was taking note of the next date of hearing. The Enquiry Officer then permitted him to leave. The workmen are entitled to complain, that the Enquiry Officer was not entitled to write behind Shri Malhotra's back, what all is contained at page 32 of Ext. M/I, after Shri Malhotra had been informed of the next hearing date. This was not the first time, that the Enquiry Officer wrote behind the back of the workmen. I have already referred to the various allegations contained from page 8 to 12, in Ext. M/I. This gives weight to the contention on behalf of the workmen, that the Enquiry Officer wrote several things behind their back, and that this lends support to the view, that the Enquiry Officer was greatly biased against them.

143. Again attention is drawn to the divergence in the remarks on 23rd June, 1959. Ext. M/394 dated 23rd June, 1959 is a letter, that was given to the Enquiry Officer on behalf of all the six workmen. There are certain remarks therein by the Enquiry Officer. Ext. W/78 is a copy of the same letter dated

23rd June, 1959, and signed by the six workmen. This contains remarks, which are entirely different from those as contained in Ext. M/394. The remarks in both of these are also different from the remarks in the typed matter contained in the several enquiry registers, on 23rd June, 1959.

144. Again, I have already referred to the case of the Bank, that opportunity was given to the workmen to make their submission against the proposed punishment, and that they were advised that the matter was posted to 2nd July. Reference has been already made to the letters of 24/27th, June. It is asserted, that those were delivered through Shri Juneja, another Notary Public. But there is no mention of this in the enquiry record. After 23rd June, we have proceedings on 2nd July. Even in the proceedings of 23rd June, it is mentioned, that the Enquiry Officer advised Shri Parvana, that no adjournment could be given, and that he should, in the absence of the "Charges", make a submission, and that Shri Parvana refused to do so, and left the place. This is no consistent with the allegations in the letter that Shri Parvana had asked for an adjournment, and that the matter was posted to 2nd July.

145. The various matters referred to above have been relied upon as illustrative and not exhaustive of the attitude of the Enquiry Officer. Even an examination of the record of enquiry shows, that the Enquiry Officer was biased, and that the enquiry was not conducted in good faith and in the manner in which it ought to have been conducted, according to the rules of natural justice, and in compliance with the provisions of the Bank Award.

146. The next contention, that has been raised, is with reference to the findings dated 17th June, 1959. At the outset, there can be no doubt at all, that these findings were not in existence on 17th June, the date, which they bear. They were prepared later in collaboration with legal advisers. No copies of these findings were delivered to the workmen. It has been held, that omission to deliver copies of the findings is a serious infirmity. In the decision in Chowdhry Vs. Union of India (1957 I LLJ 494), already referred to the rules of natural justice have been set out. The Enquiry Officer must be careful to deal with the charges, as framed and not depart from them, and import extraneous matter. The delinquent is entitled to a copy of the finding or the report of the Enquiry Tribunal, and, without the same, the delinquent can never show cause against the proposed punishment. The same view was taken in the decision in Persadi and Company Vs. Works Manager, Eastern Railway (1957 I LLJ 272). It is important to note, that in the letter dated 17th June, 1959, the Enquiry Officer called upon the six workmen to show cause in mitigation of punishment. Without a copy of the findings, it was certainly not possible for them to comply with this demand. In fact, as already indicated, they did ask for a copy of the finding by their letters dated 20th June, 1959, and subsequently, but no copies were ever supplied, and the Enquiry Officer took the view, that he was not bound to supply the same under the Award. Apparently even on 23rd June, 1959, the Enquiry Officer read out from some pencil notes, which were not on record. The hearing was concluded, and the workmen were punished on 23rd June, 1959, with the punishment of dismissal, and the enquiry concluded there, and I have given my reasons for holding, that the subsequent proceedings dated 24/27th June, 1959, are only meant to cover up the defects in the proceedings. The principles, laid down in the decision, referred to above, apply to the facts of this case. Also in the Sastry Award in Paragraph 521(10) it is stated as follows:—

"He will also be permitted to be defended by a representative of a registered trade union of bank employees, or with the bank's permission by a lawyer. He shall also be given a hearing, as regards the nature of the proposed punishment, in case any charges are established against them." In view of the last requirement, the workmen were entitled to a copy of the findings, under which the Enquiry Officer found, that the charges were established against them. Without this they could not plead in mitigation of punishment especially when they were ignorant of what had been found against them. This was even worse when the nature of the proposed punishment was not disclosed in the letter dated 17th June, 1959. The enquiry is vitiated by the omission to supply a copy of the findings, and this has deprived the workmen of the valuable right of making their defence before they were dismissed from service."

147. Nextly, it is important to note, that the Enquiry Officer imported his own knowledge into the findings. Thus for example, taking Ext. M/1 in the case of Shri Malhotra, there are various matters, that are alleged to have taken

place after Shri Malhotra and others left on 6th April, about which there is no evidence. I have also referred to the statements recorded by the Enquiry Officer at page 32 of Ext. M/1, about the incident, that is alleged to have taken place after Shri Malhotra was informed, that the enquiry was adjourned to 15th June. Next, it is alleged by the Enquiry Officer at page 44, that in the letter dated 12th June, 1959, Shri Malhotra had made false allegations against the Enquiry Officer, and the Notary Public, who was present during the enquiry, and that cyclo-styled copies of this letter had been published and distributed by him to a large number of employees, and that they had also been put up in the Bank's premises on the Union's Notice-Board, clearly with a view to incite the other members of the staff. It is not as though, that these statements which were made as within the personal knowledge of the Enquiry Officer, were not taken into account in holding Shri Malhotra guilty of the charges. At page 44 it is stated as follows:—

"In view of all these considerations, I am convinced, that Shri Lajpat Rai Malhotra is also guilty of this charge."

148. Next taking the case of Shri Devi Pershad Ext. M/2, the same remarks with reference to the incident on 16th April, are found. At page 35, the following sentence occurs:—

"It is also brought out in the evidence before me, that Shri Devi Pershad continued to take an active part in the demonstrations even after the charge-sheet was issued to him on 11th April, 1959. Even during the course of enquiry on 16th April, 1959 Shri Devi Pershad indulged in dis-orderly and rowdy behaviour, and I have no doubt, that Shri Devi Pershad had no regard for decorum or discipline, or for the orders of the management. On the material before me, there is nothing to support Shri Devi Pershad's denial, or could give me cause to dis-believe the evidence of the Bank's witnesses. I am, therefore, satisfied, that Shri Devi Pershad is guilty of this charge."

It has been rightly pointed out on behalf of the workmen, that the Enquiry Officer relied upon his own knowledge of the events, alleged to have taken place on 16th April, 1959, and of the alleged dis-orderly behaviour of Shri Devi Pershad subsequent to 11th April, 1959, and that this has weighed with him in coming to the conclusion, that the workman was guilty of the charge against him.

149. Yet, another circumstance, that has been referred to, is, that at page 36 of Ext. M/2, it is mentioned, as follows:—

"Yet another opportunity was given to him by registered A.D. letter dated 25th May, 1959, asking him to appear before the Enquiry Officer on 29th May, 1959. A copy of this letter was also served on Mr. Devi Pershad in the office on 28th May, 1959, but he refused to accept it." It is pointed out, that the above statement is based upon the personal knowledge of the Enquiry Officer, and that Shri Madan Gopal Mehra and Shri Manohar Lal Sharma were not examined in support of the refusal.

150. With reference to Shri Inder Narain Kapoor, in Ext. M/3, the Enquiry Officer referred to the alleged events on 16th April, 1959. Again, it is mentioned at page 12, that on 20th May, 1959 Shri Inder Narain Kapoor and his representative created disturbances in the enquiry room, and that there were demonstrations, lasting over an hour. The Enquiry Officer observes, that during the course of the enquiry itself, Shri Kapoor chose to behave in a dis-orderly manner. Again, at page 13 it is mentioned as follows:—

"It is stated by Shri D. Biswas, that, even after the charge-sheet had been issued to Shri Inder Narain Kapoor, he continued to take part in the disturbances. In any event, the disturbances and rowdiness on 16th April, 1959 and 20th May, 1959, which have already been described, leave no room or any doubt in my mind, that Shri Inder Narain Kapoor had no regards for the orders of the management, or for any decorum or discipline in the office."

There is reference to the alleged delivery of a letter dated 25th May, 1959, alleged to have been served on the workman in the office on 25th May, 1959, but which he refused to accept.

151. With reference to Shri Parkash Lal Chakravarti, in Ext. M/4, there is reference to the alleged events on 16th April, 1959. Again, there is reference to certain alleged events on 19th May, 1959, referred to at page 28. It is stated

therein, that Shri P. L. Chakrawarti went so far as to threaten the Enquiry Officer and make him take delivery of a letter previously referred, and that he along with others created disturbances in the enquiry room, and that his conduct was obnoxious, and disrespectful. Even on 10th June, his behaviour was threatening towards the Enquiry Officer, and he went so far as to call him names. The Enquiry Officer concluded from the above, that Shri Chakrawarti's behaviour during the enquiry was irresponsible, and dis-respectful. At page 29 it is observed as follows:—

"It has been shown by the Bank's witnesses, that Shri Parkash Lal Chakrawarti continued to participate in the demonstrations, even after the charge-sheet had been served on him on 11th April, 1959. In addition, his behaviour on 16th April, 1959, 19th May, 1959, and 10th June, 1959, which I have already described, leaves no doubt to my mind, that Shri Chakrawarti had no regard whatsoever for the orders of the management, or for decorum, or discipline, which is normally expected from any employee." Further on, it is stated, that Shri Chakrawarti had published a letter under his signature dated 13th June, 1959, in which he made false allegations against the Enquiry Officer, that cyclo-styled copies had been distributed to the Bank's customers, and this was done with a view to incite other members of the staff. There is also reference to refusal to receive letters, alleged to have been tendered to him on 28th May, 1959, and 29th May, 1959.

152. In the case of Mr. Khanna in Ext. M/5, there is mention of the events alleged to have taken place on 16th April. Again, it is observed at page 23 as follows:—

"It is clear from the evidence of the Bank's witnesses, that Shri Prem Kishan Khanna continued to take part in the demonstrations even after the 11th April, 1959, which shows, that, even after the charge-sheet had been served on him on that day, he had not cared to behave in a proper manner. In any events, the incident of 16th April, 1959, during the course of enquiry, which had been described earlier, would leave no doubt in anybody's mind, that Shri Prem Kishan Khanna had no regard for decorum, or discipline, or for orders of the management." Then there is reference to Shri Prem Kishan Khanna's false allegations against the Enquiry Officer, the distribution of leaflets under his signatures. After this the Enquiry Officer states, as follows:—

"In the light of the above material before me, I have no hesitation in finding, that Shri Prem Kishan Khanna is guilty of the charges." Subsequently, there is reference to his alleged refusal to accept a letter, that was served on him in the office on 29th May, 1959.

153. With reference to Shri Rajinder Lal Syal, in Ext. M/6, at page 26, there is mention of the statements of events alleged to have taken place on 16th April, 1959. Again, it is observed at page 28 as follows:—

"As stated by the Bank's witnesses, when, even after the charge-sheet had been issued to him on 11th April, 1959, Mr. Rajinder Syal continued to take active part in the disturbances, which shows, that even after the charge-sheet had been issued, Mr. Rajinder Syal did not care to behave in a proper manner. In any events, the disturbances on 16th April, 1959, during the enquiry proceedings, which have already been described, would leave no doubt in anybody's mind, that Mr. Rajinder Syal had no regard for decorum, or discipline, or for management's orders." Then there is reference to Shri Rajinder Syal making false allegations against the Enquiry Officer, and publication of hand-bills and leaflets, and distribution of the same to the Bank's customers, and the alleged refusal by him to receive a letter, when served upon him in the office.

154. Nextly, there is reference to the alleged events at the enquiry on 9th June, 1959, and it is stated that Shri Rajinder Syal deliberately refused to participate in the enquiry on 9th June, 1959, and that he made false statement with regard to that day's events in the letter dated 9th June, 1959.

155. It is contended on behalf of the workmen, that a perusal of the findings will show, that the Enquiry Officer held them guilty, not only on the basis of

what the Bank's witnesses are alleged to have stated with reference to the allegations in the charge-sheets, on the days mentioned therein, but also that he has taken into account the events alleged to have taken place on 16th April, 1959, and even thereafter, as proving their guilt. In other words, it is contended, that he has imported extraneous matters into the findings, i.e., events alleged to have taken place subsequent to the dates mentioned in the charge-sheets, and also events based on his own personal knowledge, and that this is particularly objectionable in view of his ruling, (Ext. M/4B, M/5A, and M/6A), that he would not allow any subsequent events to be taken into account, and that the workmen should confine themselves to the events on the dates mentioned in the charge-sheets. It is difficult to resist the contention on behalf of the workmen, that the Enquiry Officer, in holding the workmen guilty of the charges against them, has imported his own personal knowledge, and extraneous considerations, and evidence about subsequent events. This is objectionable, and vitiates the entire proceedings. In the decision in *B. C. Chatterjee Vs. State of Bengal* (1954 II LLJ 713) it was held by the Calcutta High Court, that, although a departmental enquiry need not be carried out strictly according to the rules applicable to judicial proceedings, still the principles of natural justice should be followed, and that it is one of the fundamental principles of natural justice, that a judge cannot give evidence before himself, and weigh the same, while coming to the decision. It was also found, that the Enquiry Officer therein was in fact a material witness, and that he should equally and promptly remove himself from the office of the Enquiry Tribunal. On the facts of the present case, it has been established on the evidence of Shri Sarwal, that he was not only the Enquiry Officer, but also the representative of the Bank, who framed the charge-sheets on the basis of events, that were within his own personal knowledge. There is no doubt, that Shri Sarwal has imported his own personal knowledge and extraneous matters in arriving at the finding of guilt, and this vitiates the finding. It is laid down in *Syed Qamar Ali and State of Madhya Pradesh* (1959 I LLJ 47) by the Madhya Pradesh High Court, that, when an order of dismissal is partly based on admissible material, and partly on inadmissible material, which could not be separated, the entire order must be held to be void, and inoperative.

156. It was observed in *Lala Laxman Das Vs. Goverdhan Das* (A.I.R. 1960 Punjab 8), that in an enquiry before the domestic tribunal, the person, who is charged, is entitled to know the conclusions arrived at by the punishing authority, for proposing the punishment in order that he may be in a position to defend his case. The mere service of notice of the proposed punishment cannot be deemed to be giving a reasonable opportunity to the public servant for showing cause against the action proposed to be taken in regard to him. The service of the copy of the findings of the Punishing Authority on the public servant is mandatory. In the decision in *Dhian Singh Vs. Deputy Secretary Government of Punjab* (1960 Punjab 41), it was laid down, that the Tribunal concerned, must consciously satisfy itself, before proceeding to hear and dispose of the case ex-parte or in default, that a notice of the enquiry in fact has been duly served. This is one of the basic rules of Indian Justice. There is no doubt at all that the principles laid down above have not been kept in mind by the Enquiry Officer. The findings arrived at, are baseless and perverse, and cannot be up-held.

157. A consideration of the various circumstances in the case establish, that the enquiry held on behalf of the bank by Shri Sarwal is neither fair nor impartial. It is vitiated by infringement of the principles of natural justice. He was a person who was biased against the workmen and he being the Enquiry Officer for conducting the enquiry, and punishing the workmen is in bad faith. More especially is this so, when it is clear from the record, that he was only the mouth piece of the manager. It is difficult to believe that Mr. Sarwal kept an open mind, and, on the contrary, there is no doubt, that he had no option except to toe the line of Mr. Brown and the management. There is no doubt, that the charge-sheets were served against these six workmen, not because the charges were true but because they were the office bearers and active members of the Union, and they were responsible primarily for putting forward the rights of the workmen as against the management. I find, that the action taken against the workmen is vitiated by bad faith, that there has been violation of the principles of natural justice, that the charges against the workmen are not true, that the findings of the Enquiry Officer are perverse and baseless, and that the action taken by the management against the six workmen in question is an act of victimisation and unfair labour practice.

158. In view of my findings, as above, the order of dismissal passed against them is wrongful and unjustified, and cannot be permitted to stand. Accordingly, it is set aside.

159. With reference to the question of relief, I see no sufficient grounds for denying the relief of re-instatement. The argument, that these workmen had behaved in a disorderly manner, and that they were ring leaders, is not entitled to any weight, and they are entitled to re-instatement. They are entitled to back wages also.

160. The contention has been put-forward on behalf of the workmen, that they are also entitled to wages for the strike period. This is wholly outside the scope of this reference, and it cannot be entertained in this proceeding. I find, that the dismissal of the six workmen in question is wrongful, and unjustified, and that they are entitled to re-instatement, and also back wages, as claimed.

*Issues No. 4 and 9*

161. The contention has been raised on behalf of the workmen, that an enquiry should be directed against the Manager, and Shri Sarwal, under Paragraph 517 of the Sastry Award. No doubt, there is provision for an enquiry in the Sastry Award. In paragraph 517(2) the proviso is to the effect, that complaints relating to assault, or abuse by any person holding a supervisory position, shall be enquired into immediately. In view of the fact that 21 workmen preferred a complaint of abuse and wrongful confinement by Mr. Brown and Shri Sarwal, under this provision it was incumbent upon the Bank to order an enquiry into this complaint. The Head Office at London failed to order an enquiry, in spite of being requested to do so. This is an infringement of the terms of the Bank Award.

162. However, granting, that an enquiry was called for, on the facts of this case, I do not feel called upon to order any such enquiry. It is sufficient in the interests of justice, that the workmen are re-instated in service, and restored to their old posts, together with back wages.

*Issue No. 10*

163. In the result an award is passed as follows:—

(i) The order of dismissal passed against the six workmen in question by the management of the National & Grindlays Bank Limited, is set aside, as being wrongful, and unjustified and the said management shall re-instate the six workmen in service, and restore them to their old posts on the same terms and conditions of service, as before, within two weeks from the date, when this award becomes enforceable, and the period between the date of dismissal and the date of re-instatement shall not operate as break in continuity of service, and the said period shall be treated as continuous service.

(ii) The said management shall also pay to each of the afore-mentioned workmen all the back wages, and emoluments due to them at the rate, at which they were being paid to him at the time of dismissal, from the date of dismissal to the date of re-instatement.

(iii) There will be no order as to costs.

(One-hundred and Seventy Pages).

28th September, 1960.

(Sd.) E. KRISHNA MURTI,  
Central Govt. Industrial Tribunal, Delhi.

[No. LR11-10(57)/59.]

S. N. TULSIANI, Under Secy.

New Delhi, the 24th October 1960

S.O. 2629.—In pursuance of the provisions of paragraph 20 of the Employees Provident Funds Scheme, 1952, the Central Government hereby appoints Shri H. P. Duara, Labour Commissioner, Assam, as Regional Provident Fund Commissioner for the whole of the State of Assam vice Shri B. Sarma. Shri H. P. Duara shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[ No. 31(750)60-PFI.]

S.O. 2630.—In exercise of the powers conferred by sub-section (1) of Section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri H. P. Duara, Labour Commissioner, Assam, to be



an Inspector for the whole of the State of Assam for the purposes of the said Act and of any scheme framed thereunder, in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry *vice* Shri B. Sarma.

[No. 31(750)60-PFL.]

P. D. GAIHA, Under Secy.

### ORDER

*New Delhi, the 22nd October 1960*

**S.O. 2631.**—Whereas an industrial dispute exists between the employers in relation to M/s British India Steam Navigation Company Ltd., Bombay and their workmen represented by the Dock, Clerical and Administrative Workers' Union, Bombay;

And whereas Messrs British India Steam Navigation Company Limited, Bombay and the said workers' Union have, under sub-section (1) of section 10-A of the Industrial Disputes Act, 1947 (14 of 1947), referred the dispute to arbitration by an Arbitration Agreement and have forwarded to the Central Government under sub-section (3) of the said section a copy of the said Arbitration Agreement;

Now, therefore, in pursuance of sub-section (3) of section 10-A of the said Act, the Central Government hereby publishes the said Arbitration Agreement.

### AGREEMENT

(Under Section 10-A of the Industrial Disputes Act, 1947).

### BETWEEN

M/s British India Steam Navigation Company Ltd., Bombay

### AND

The workmen of Cargo Department of British India Steam Navigation Company Ltd., Bombay represented by Dock, Clerical and Administrative Workers' Union, Bombay.

### NAME OF PARTIES

*Representing employers.*—(i) Shri D. J. Holland. (ii) Shri R. P. Vachha.

*Representing workmen.*—(i) Shri I. T. Collasco, Gen. Secy. of the Union.

It is hereby agreed between the parties to refer the following Industrial disputes to the sole arbitration of Shri F. Jeejeebhoy, City Ice Building, Bazar-gate Street, Bombay-1.

(i) The matter in disputes are as follows:—

- a. Whether the retrenchment of the workmen of the Cargo department in Bombay is justified.
- b. If not what relief should be extended to the retrenched workmen.
- c. If yes, whether the retrenched workmen are entitled to any more monetary relief than what has already been extended.

(ii) Details of the parties to the dispute including the name and address of the establishment or Undertaking involved:—

- a. M/s. British India Steam Navigation Company Ltd., represented by their Agents *viz.* Mackinnon Mackenzie & Company (P) Ltd., Post Office Box No. 122, Bombay-1.

### AND

- b. The workmen of Cargo department of the company.
- (iii) Name of the Union, if any, representing the workmen in question:—  
Dock, Clerical and Administrative Workers' Union, Hussein Building, 235, Frere Road. Bombay-1.
- (iv) Total number of workmen employed in the undertaking affected:— 250.

(v) Estimated number of workmen affected or likely to be affected by the dispute:— 171.

We further agree that the decision of the above Arbitrator shall be binding on us.

Dated this, 5th day of October, 1960

Witnesses

1. (Sd./-)
2. (Sd./-)

Signature of the parties

1. (Sd.) R. P. VACHHA,  
Representing employers
2. (Sd.) I. T. COLLASCO,  
Representing workmen.

I, Shri F. Jeejeebhoy, hereby consent to act as the Sole Arbitrator in this matter.

(Sd.) F. JEEJEEBHAY,  
9-10-60.

[No. 28/48/60/LR.IV.]

A. L. HANDA Under Secy.

### MINISTRY OF INFORMATION & BROADCASTING

*New Delhi, the 24th October 1960*

**S.O. 2632.**—In exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints after consultation with the Central Board of Film Censors the following persons as members of the Advisory Panel of the said Board at Calcutta with immediate effect:—

1. Shri K. P. Khaitan.
2. Shri Chidananda Das Gupta.

[No. 11/3/59-FC.]

**S.O. 2633.**—In exercise of the powers conferred by sub-rule (3) of rule 8 of the Cinematograph (Censorship) Rules, 1958 read with sub-rule (3) of rule 9 of the said Rules, the Central Government hereby re-appoints the following persons after consultation with the Central Board of Film Censors as members of the Advisory Panel of the Central Board of Film Censors at Calcutta with effect from 8th October 1960.

1. Shri S. Raut Roy.
2. Smt. Ranu Mookerjee.

[No. 11/3/59-FC.]

**S.O. 2634.**—In exercise of the powers conferred by sub-rule (3) of rule 8 of the Cinematograph (Censorship) Rules, 1958 read with sub-rule (3) of rule 9 of the said Rules, the Central Government hereby re-appoints Shri N. P. Pande after consultation with the Central Board of Film Censors as a member of the Advisory Panel of the Central Board of Film Censors at Calcutta with immediate effect.

His previous term of membership expired on 1st September 1960

[No. 11/3/59-FC.]

S. PADMANABHAN. Under Secy.